



Agenzia per l'Italia Digitale

Presidenza del Consiglio dei Ministri



REALIZATION OF A RESEARCH AND  
DEVELOPMENT PROJECT (PRE-COMMERCIAL  
PROCUREMENT) ON "CLOUD FOR EUROPE"

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# TENDER REGULATION

## ANNEX I TO THE CONTRACT NOTICE

TENDER NUMBER <5843932>

CUP <C58I13000210006>

CLOUD FOR EUROPE

FP7-610650

This project has received funding from the European Union's  
Seventh Framework Programme for research, technological development  
and demonstration under grant agreement no 610650.



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## 1 INTRODUCTION

### 1.1 GENERAL CONTEXT OF THE PRE-COMMERCIAL PROCUREMENT (PCP)

Pre-Commercial Procurement ("PCP") is a new model of procurement that currently is spreading also in many European Union Member States. This process is an alternative financing tool designed to encourage investment in research and development ("R&D") with which the EU Member States and the other extra EU countries may optimize R&D spending.

**Pre Commercial Procurement is exempted from the application of Directive 2004/18/EC** of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts as it concerns "research and development services other than those where the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs, on condition that the service provided is wholly remunerated by the contracting authority." Article 16 (f) of said Directive is implemented by article 19 (f) of Decree Law 163/2006 (Italian procurement law).

Pre Commercial Procurement is characterized by the following key elements:

- It is used to procure R&D services only and the public purchaser does not reserve the R&D results exclusively for its own use;
- Risk-benefit sharing between the public purchaser and the R&D service providers, with sharing of Intellectual Property Rights;
- It is designed to exclude state aid: the entire procurement process must be organized to ensure maximum competition, transparency, openness, fairness and pricing at market conditions and to enable at the public purchaser to identify the best possible solutions that the market can offer.

PCP is a competitive development in more phases that aims at conducting R&D up to the production of a limited volume of first products/services in the form of a test series. The target can typically be a solution to a major technical challenges.

The process phases are related to the solution design (Phase I), the development of prototypes development (Phase II) and the original development of a limited volume of first products or services in the form of a test series (Phase III).

The number of suppliers decreases from one phase to the next in order to select the suppliers that best address the technical challenges on which the PCP is based.

### 1.2 BACKGROUND INFORMATION ON THE "CLOUD FOR EUROPE" PROJECT

The *Cloud for Europe* project is co-funded by the European Commission under the Framework Programme for Research and Innovation (FP7), under the funding scheme of "CP-CSA for PCP".

Execution of the project was entrusted to an international consortium consisting of 23 partners from 14 countries, led by the Fraunhofer-Institute for Open Communication Systems (FOKUS), Germany.

*Cloud for Europe*, in support of the European Cloud Partnership, intends to allow the public sector to implement well-defined cloud computing strategies, by removing the obstacles for Cloud adoption and by harmonizing the requirements from different public organisations beyond national borders.

The main objectives of *Cloud for Europe* are:

- Identifying obstacles for cloud use in the public sector
- Defining challenges to be tackled in order to overcome these obstacles
- Procuring research from industry to find innovative solutions to the defined challenges

### 1.3 CONTRACTING AUTHORITIES AND LEAD CONTRACTING AUTHORITY

In order to simplify and uniform the legislation (i.e. equal treatment and conditions for the economic operators) the present tender is realized following the Lead Tendering Authority model, which foresees the assignment of the duty to launch the tender to a single authority, chosen among the *Cloud for Europe* partners.

Agenzia per l'Italia Digitale (AGID) has been chosen by the other Contracting Authorities as the Lead Contracting Authority that will act in its own name and on behalf of the Contracting Authorities:

- Agenzia per l'Italia Digitale, Italy;
- The Kingdom of the Netherlands, represented by the Ministry of Financial Affairs, Directoraat Generaal Belastingdienst, The Netherlands;
- Entidade de Serviços Partilhados da Administração Pública, I.P. (ESPAP), Portugal;
- Institutul National de Cercetare-Dezvoltare in Informatica – ICI Bucuresti, acting on behalf of the Ministry for information society, Romania;
- Ministerstvo financií Slovenskej republiky, Slovakia.

### 1.4 LEGAL FRAMEWORK

This tender procedure is based on the implementation of the awarding procedures for PCP call for tenders, as set forth in the EC Communication COM (2007) 799 "Pre-commercial Procurement: Driving innovation to ensure sustainable high quality public services in Europe" and by the EC staff working document SEC (2007) 1668 "Example of a possible approach for procuring R&D services applying risk-benefit sharing at market conditions, i.e. pre-commercial procurement".

**The entire PCP procedure will be carried out under Italian law.**

Within Italian national legislation, public procurement procedures are governed by the Decreto legislativo - Legislative Decree – of 12 April 2006, n. 163 and subsequent amendments also named the "Code of public

contracts for works, services and supplies in implementation of Directives 2004/17/EC and 2004/18/EC" (hereafter referred to as the "**Code of public contracts**" or the "**Legislative Decree n. 163/2006**").

In this regulatory context, PCP is covered by a specific exception contained in art. 19, paragraph 1, lett. f) of the Code of public contracts, and is therefore in principle exempted from the application of the provisions set out in the Code of public contracts.

However, art. 27 of the Code of public contracts (principles relating to excluded contracts) nonetheless requires that the award of public contracts that are not or not fully subject to the provisions of the Code of public contracts, shall take place in accordance with the general principles of economy, effectiveness, impartiality, equal treatment, transparency, proportionality.

Therefore, the PCP shall be solely subject to the general principles of public procurement set out above. Further provisions contained in the Code of public contracts shall only apply when specifically mentioned in the Tender Documents.

## 1.5 COMPETENT COURT AND JURISDICTION

Any legal claim, petition or application for judicial review, with regard to the present procurement procedure, whether before civil law courts or administrative courts, shall be made in Italy. By submitting a Bid, the Tenderer accepts the exclusive jurisdiction of Italian courts.

Appeal procedures against decisions taken in the Tendering Stage and with regard to the selection of Tenderers in between the different phases of the Execution Stage may be lodged with the Tribunale Amministrativo Regionale per il Lazio (Administrative Law Court of the Region of Lazio).

The Tribunale Ordinario di Roma (Civil Law Court of Roma) shall have exclusive jurisdiction for any dispute or claim arising out of or in connection with the execution of the agreement entered into between the Procuring Entity and the Contractor.

## 2 OBJECT OF THE TENDER

This procedure has as its subject the award of Framework Agreements for the realization of research and development services, in accordance with the document "Technical Specifications", to be performed in compliance with the requirements contained herein and in its attachments.

This particular pre-commercial procurement procedure is divided into 3 (three) lots and each lot will provide a Framework Agreement for the realization of research and development services:

- **LOT 1: "Federated Certified Service Brokerage (FCSB)" – CIG: 6027774476**
- **LOT 2: "Secure, Legislation – Aware Storage (SLAS)" – CIG: 6027802B8F**
- **LOT 3: "Legislation Execution (LE)" – CIG: 602781022C**

**Each Tender can participate in one, two or all the three lots for which it meets the requested requirements.**

Lot 3 identifies three variations. A variation of a lot is a combination of options from which the bidders may choose. It is admissible to present offers that address all requirements of one, two or all variations, in any combination.

Partial offers shall not be admitted. A partial offer is an offer, which only addresses part of the requirements for a given lot or part of the requirements for a variation of a lot. For Lot 3 this means that bidders may offer a Framework, and/or a Generic Legislation Execution, and/or an Integrated Legislation Execution, as better detailed in the Technical Specifications.

### 3 STRUCTURE OF THE TENDER

The Tenderer of each lot will provide:

For "Phase I" (Solution design), the solution design.

Phase I, for each lot, envisages a **minimum of 4 (four) contractors and a maximum number of contractors** which will be identified up to the amount established for Phase I, set out in Section 4 (table no. 1 "Tender spendable amount, Phases I– Lots 1, 2 and 3) and, in any case, to a **number not exceeding 10 (ten) contractors**;

For "Phase II", (Prototype development) the development and integration of a prototype.

Phase II, for each lot, envisages a minimum of 3 (three) contractors, and a maximum number of contractors which will be identified up to the amount established for Phase II, set out in Section 4 (table no. 2 "Minimum Tender spendable amount, Phases II and III – Lots 1, 2 and 3) and, in any case, to a number not exceeding 6 (six) contractors;

For "Phase III" (Original development of a limited volume of first products or services in the form of a test series), the original development of a limited volume of first products or services in the form of a test series.

Phase III, for each lot, envisages a maximum number of contractors which will be identified up to the amount established for Phase III, set out in Section 4 (table no. 2 "Presumed Tender spendable amount, Phases II and III– Lots 1, 2 and 3) and, in any case, to a number not exceeding 3 (three) contractors. For each Lot, the Lead Contracting Authority may proceed with the awarding of Phase III also if there is only one valid Bid (hereinafter also "Offer").

**The instructions for the implementation of the subsequent Phases II and III will be properly regulated in the relevant Invitation letters, through which the Contractors may be invited to submit their technical and economic offer,** notwithstanding that the general principles set forth in this Regulations will be applied also to Phases II and III.

The Bid submitted by the interested tenderers in respect of this Tender Regulation will refer only to "Phase I" (Solution design), which foresees the solution design.



## 4 VALUE OF THE TENDER

The maximum overall amount available for the realization of the project is equal to € 4.000.000,00 (four million/00) excluding V.A.T. and it is divided by research and development service:

PCP Phase	Tender spendable amount		
	Lot 1	Lot 2	Lot 3
Phase I Solution design	€ 222.000-	€ 222.000-	€ 156.000-

**Table 1: "Tender spendable amount, Phase I – Lots 1, 2 and 3"**

The presumed Tender amounts spendable by Agenzia per l'Italia Digitale (hereinafter "AGID" or "Lead Contracting Authority"), specified in the table below, related to Phase II and III of each lot, may be increased on the basis of any residuals obtained after the awarding of Phase I of Lots 1, 2 and 3.

The Invitation Letters related to Phase II and III of Lots 1, 2 and 3 will specify the exact amounts to be spent by AGID in the aforementioned lots.

PCP Phase	Minimum Tender spendable amount		
	Lot 1	Lot 2	Lot 3
Phase II Prototype development	€ 592.000-	€ 592.000-	€ 416.000-
Phase III Original development of a limited volume of first products or services in the form of a test series	€ 666.000-	€ 666.000-	€ 468.000-

**Table 2: "Minimum Tender spendable amount, Phase II and III – Lots 1, 2 and 3"**

Therefore, for the purposes of the tender, for a single research and development project, the contract price (maximum amount) for each phase are equal to:

Lot 1

- **€ 40.000,00** (forty thousand/00), V. A.T. not included, for Phase I;
- **€ 197.333,00** (one hundred ninety-seven thousand three hundred and thirty-three/00), V.A.T. not included, for Phase II;
- **€ 333.000,00** (three hundred and thirty-three thousand/00), V.A.T. not included, for Phase III.

Lot 2

- **€ 40.000,00** (forty thousand/00), V. A.T. not included, for Phase I;
- **€ 197.333,00** (one hundred ninety-seven thousand three hundred and thirty-three/00), V.A.T. not included, for Phase II;
- **€ 333.000,00** (three hundred thirty-three thousand/00), V.A.T. not included, for Phase III.

Lot 3

- € 30.000,00 (thirty thousand/00), V. A.T. not included, for Phase I;
- € 138.667,00 (one hundred thirty-eight thousand and six hundred sixty-six/00), V.A.T. not included, for Phase II;
- € 234.000,00 (two hundred and thirty-four thousand/00), V.A.T. not included, for Phase III.

There are no security charges deriving from interferential risks (i.e. risks due to interference between the activities to be performed by contractor(s) and subcontractor(s)).

## 5 DURATION OF THE TENDER

The Framework Agreements will be effective for the overall duration of 18 (eighteen) months from the signing.

- Phase I (Solution design) of each lot will be effective for 2 (two) months.
- Phase II (Prototype development) of each lot will be effective for **approximately 7** (seven) months.
- Phase III (Original development of a limited volume of first products or services in the form of a test series) of each lot will be effective for **approximately 5** (five) months.

The Lead Contracting Authority reserves the right to have an extension of the Framework Agreement duration to be concluded with the Contractor. The duration of the Framework Agreement cannot be extended beyond November 30, 2016.

## 6 ECONOMIC OPERATORS ELIGIBLE TO PARTICIPATE IN THE TENDER

### 6.1 ECONOMIC OPERATORS

Economic operators established in an E.U. Member State, established in a Country that has signed by the WTO Agreement on Government Procurement (GPA) or established in a Country that has not signed the GPA, are entitled to submit offers.

Public Universities and Public Research Institutions are eligible to participate to the tender as individually or collectively suitable economic operators.

Economic operators based, resident or domiciled in Countries included in the so called "black list" set forth in Order of the Minister for Finance of 4 May 1999 and Order of the Italian Minister for the Economy and Finance of 21 November 2001, must possess, under penalty of exclusion from the tender, the authorization granted under Order of the Minister for the Economy and Finance of 14 December 2010 issued under art. 37 of the Law Decree no.78, 3 May 1978.

Economic operators are entitled to submit offers either individually or by way of a consortium or association comprising several Tenderers or Groups of economic operators. For each Phase, **at least the 70% of Research and Development services shall be performed within the European Member States and Countries associated to Framework Programme 7** (see list of FP7 associated countries on [http://cordis.europa.eu/fp7/who\\_en.html](http://cordis.europa.eu/fp7/who_en.html)).

## 6.2 INDIVIDUALLY SUITABLE ECONOMIC OPERATORS

Economic operators that are individually suitable under art. 34, sub. 1, of the Code of public contracts are entitled to submit offers:

- a) Sole traders, even craftsman's business, trading companies, cooperatives.

Candidates or tenderers who, under the law of the State in which they are established, are entitled to perform the services object of this Tender are entitled to submit offers to this Tender.

## 6.3 COLLECTIVELY SUITABLE ECONOMIC OPERATORS

Economic operators that are collectively suitable under art. 34, sub. 1, of the Code of public contracts are entitled to submit offers:

- b) cooperatives in consortia, and craftsman's business consortia;

- c) stable consortia;

- d) Temporary Grouping of Operators;

- e) regular consortia of tenderers;

- e-bis) Business Network Contracts;

- f) European Economic Interest Grouping (E.E.I.G.);

f-bis) Economic Operators established in a E.U. Member States different from Italy, according to the provision applicable in their relevant country

- g) Operators that plan to temporary grouping or to became members of a consortium to gain eligibility under art. 37, sub. 8, of the Code of public contracts.

Definitions in Art. 36 and 37 of the Code of public contracts apply to the above-mentioned operators.

Anyway, in order to submit an offer to this tender, these groups are not required to assume a specific legal form; however, the group selected are required to do so when it has been awarded the contract, to the extent that this change is necessary for the satisfactory performance of the present Tender.

## 6.4 QUALIFICATION OF THE ECONOMIC OPERATORS

Economic operators can participate in this tender under the same terms and conditions provided for the economic operators established in Italy.

Economic operators are requested to submit the documentation in compliance with the law in force in their relevant Countries, which shall be suitable to demonstrate to be out of the Exclusion grounds defined in Section 7 of this Tender Regulation.

## 7 EXCLUSION GROUNDS

1. Any candidate or tenderer who has been the subject of a conviction by final judgment for one or more of the reasons listed below shall be excluded from participation in this tender:
  - (a) participation in a criminal organisation, as defined in Article 2(1) of Council Framework Decision 2008/841/GAI;
  - (b) corruption, as defined in Article 3 of the Council Act of 26 May 1997 and Article 3(1) of European Council Joint Action 98/742/JHA respectively;
  - (c) fraud within the meaning of Article 1 of the Convention relating to the protection of the financial interests of the European Communities;
  - (d) money laundering, as defined in Article 1 of the European Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering.
2. Furthermore, any economic operator shall be excluded from participation in this tender where that economic operator:
  - (a) is bankrupt or is being wound up, where his affairs are being administered by the court, where he has entered into an arrangement with creditors, where he has suspended business activities or is in any analogous situation arising from a similar procedure under national laws and regulations;
  - (b) is the subject of proceedings for a declaration of bankruptcy, for an order for compulsory winding up or administration by the court or of an arrangement with creditors or of any other similar proceedings under national laws and regulations;
  - (c) has been convicted by a judgment which has the force of res judicata in accordance with the Italian law of any offence concerning his professional conduct;
  - (d) has been guilty of grave professional misconduct proven by any means which the contracting authorities can demonstrate;
  - (e) has not fulfilled obligations relating to the payment of social security contributions in accordance with the legal provisions of the country in which he is established or with those of the country of the contracting authority;
  - (f) has not fulfilled obligations relating to the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country of the contracting authority;
  - (g) is guilty of serious misrepresentation in supplying the information required under this Section or has not supplied such information.
3. Furthermore, for each Lot:
  - tenderers cannot participate in the same Lot of this tender as members of more than one temporary grouping of companies, or regular consortia of tenderers, or other form of collectively suitable economic operator;
  - tenderers cannot participate in the same Lot of this tender individually if they already took part in the same Lot as members of a regular consortium, or as part of a business combination participating in a network contract ("Business Network Contract") or other form of collectively suitable economic operator;
  - members of consortium under art. 34, sub. 1, let. b) (Cooperatives in consortia and craftsman's business consortia) and let. c) (stable consortia) of the Code of public contracts cannot participate in the same Lot in any other form.

## 8 INSTRUCTION FOR THE SUBMISSION OF OFFERS

The tenderer shall submit, **for each lot** for which he/she intends to submit an offer, in accordance with the procedures described below, and specifically addressed to:

**Agenzia per l'Italia Digitale (AGID)**

**Via Liszt, 21**

**00144 – ROMA, ITALY**

**Area Cittadini, Imprese e Trasferimento Tecnologico**

**Strictly by no later than the 12 of March 2015 at 15.30.**

one parcel, which shall be closed and sealed on the closing flaps, with a system suitable to ensure the integrity against manipulation.

The parcel shall be closed in accordance with the procedure specified below for tenderers participating individually or by way of grouped companies. For tenderers participating individually, the parcel shall bear on the outside:

- the tenderer name or Company name;
- e-mail address, certified e-mail address (only for economic operators established in Italy), and, if available, fax number;
- **the lot in which the tenderer intends to participate**, according to the naming given in Section 2;
- in case of tenderer participating by way of grouped companies (Temporary Grouping of Companies, Consortia, Business Network Contracts, E.E.I.G.) information regarding each single tenderer, already incorporated or to be incorporated [the tenderer name or Company name, e-mail address, certified e-mail address (only for economic operators established in Italy), and, if available, fax number];
- the wording: **< REALIZATION OF A RESEARCH AND DEVELOPMENT PROJECT (PRE COMMERCIAL PROCUREMENT) ON “CLOUD FOR EUROPE” – TENDER NUMBER: 5843932 – CUP: <C58I13000210006>.**

If the tenderer/s wish/es to participate in two or all three lots, it/they shall submit as many separate parcels, as the number of lots it/they wish/es to participate in, sealed in the manner described above, each containing the 3 envelopes referred to in the following Section 9.

The parcel shall be sent in one of the following:

- Via Italian postal service recorded delivery;
- Via a similar delivery method to recorded delivery provided by specialist couriers;
- Via hand delivery to AGID between 10:00 a.m. and 13.00 p.m. and between 2.30 p.m. and 3.30 p.m. (Rome - UTC+1) each business day, excluding Saturday, which will issue a receipt stating the date and time of reception.

The procedure for the submission of the parcel is prescribed under penalty of exclusion.

**Delivery of the package is exclusively the sender's responsibility:** no application for participation will be accepted if the package is received by AGID after the deadline for sending in applications, including if delay or failure to deliver was a result of an act of God, fortuitous events, or attributable to third parties.

Given the close connection between the envelope forwarding methods and the verification of compliance with the term (required by law) and, in any case, in order to guarantee equal treatment, it is specified that any receipt, issued by different structures other than AGID, will not serve as evidence, and therefore, if the envelope is not received at the said office within the deadline, the offer will not be taken into account.

The parcels will be opened, in public session, at:

**Agenzia per l'Italia Digitale (AGID)**

**Via Liszt, 21**

**00144 – ROMA**

**on March, 16<sup>th</sup> 2015 at 11.00**

Those concerned (legal representatives of companies and persons empowered duly to commit the company), one for each tenderer, are admitted to attend the tender opening session.

## **9 REQUEST TO PARTICIPATE AND DOCUMENTS TO SUBMIT**

The parcel mentioned above (Section 8) shall contain, **under penalty of exclusion**, no. 3 envelopes containing, respectively, the documentation required for participating, the technical offer and the financial offer, sealed and signed on the closing flaps, bearing on the outside the tender title, the tenderer denomination, and the wording "1 Documentation", "2 Technical Offer", and "3 Financial Offer".

### **9.1 CONTENT OF THE ENVELOPE "1 DOCUMENTATION"**

The envelope "1 Documentation" shall contain the documents listed in paragraphs 9.1.1, 9.1.2, 9.1.3.

#### **9.1.1 Request for participation (to fill in Annex A)**

signed by the legal representative of the tenderer, under penalty of exclusion, with a copy of an Identity Document of the signer; the request can be signed also by a procurer of the legal representative, in which case, under penalty of exclusion, must come with a certified true copy of the original act of authorization; the legal representative (or his procurer) must indicate an address for service, an e-mail address, a certified e-mail address (just for economic operators established in Italy), otherwise a fax recipient, if available, in order to provide communications.

It should be noted that:

in case of temporary grouping of companies, or ordinary consortium or European Economic Interest Grouping non yet incorporated, the request for participation, under penalty of exclusion, must be signed by all the subjects that will embody the grouping, the consortium or the E.E.I.G.;

in case the temporary grouping is already incorporated, the request for participation, under penalty of exclusion, must be signed only by its legal representative (in case of person empowered duly to commit the company, a simple copy of the power of attorney should be attached to the form);

in case the tenderer is companies consortium, under art. 43, sub. 1, let. b) and c) and art. 36 of the **Code of public contracts**, the participation form must be signed, under penalty of exclusion:

- by the legal representative of the consortium, if the consortium applies on its own (in case of person empowered duly to commit the company, a simple copy of the power of attorney should be attached to the request);
- by the legal representative of the consortium and by the legal representatives of each of the consortium's company member appointed to perform the tender, if the consortium applies on behalf of one or more consortium member companies (in case of person empowered duly to commit the company, a simple copy of the power of attorney should be attached to the request);
- by the legal representative of the consortium or the E.E.I.G., in case the consortium or the E.E.I.G. are already settled up (in case of person empowered duly to commit the company, a simple copy of the power of attorney should be attached to the request).

In case the tenderer is a Business Network Contract:

- if the network is incorporated and can count on a joint representative body, according to art. 3, sub. 4- quater, of the Law decree of the 10 February 2009, no.5, the request for participation must be signed, under penalty of exclusion, by the economic operator that performs as joint representative body;
- if the network can count on a joint representative body but it is not incorporated according to art. 3, sub. 4- quater, of the Law decree of the 10 February 2009, no.5, the request for participation must be signed, under penalty of exclusion, by the economic operator that performs as joint representative body as well as by each of the companies in the business network that applies for the tender;
- if the network can count on a joint but not representative body, if the network is unprovided with such a body, or if the joint body does not met the qualification requirements to act as proxy, the participation form must be signed, under penalty of exclusion, by the legal representative of the network member company that act as proxy, or, in case that the structure chosen to participate is a Grouping of Companies that isn't yet embodied, by each of the companies in the business network that applies for the tender.

**Warning:**

- in case the tenderer is a consortium of the kind laid down art. 34, sub. 1, let. b), and c) of the Code of public contracts a certificate true copy of the instrument of incorporation must be submitted, as well as, for the consortium to which art. 34, sub, let. c) of **the Code of public contracts** a certificate true copy of

the decision of the deliberative body of every consortium company member showing the will to cooperate for at least 5 years;

- in case the tenderers are already existing Temporary Grouping of Companies, or ordinary Consortium, a certificate true copy of the collective irrevocable power of attorney to the appointed lead company (i.e. the company acting in its own name and on behalf of the other grouped companies) or a certificate true copy of the Consortium's instrument of incorporation, must be submitted.

### **9.1.2 Declaration of enrollment on the register of companies (to fill in Annex B)**

made under art. 46 and 47 of the Presidential Decree of the 28 December 2000, no.445, or, for the tenderers residents outside Italy, equivalent suitable documentation according to the State relevant legislation, in which the tenderer, under penalty of exclusion:

- indicates the Public register in which Companies are recorded, specifying the details of the record (number and date), the legal form and the activity for which is recorded, that should match the object of the present tender procedure or other register or board equivalent according to the State relevant legislation (if the company is not required to register shall specify the grounds, eventually attaching further documentation that the tenderer can legitimately execute the tendering provision);
- indicates the identification data (first name, last name, date and place of birth, qualification) of the sole trader, of all the partners of a general partnership, of all the partners of a limited partnership, as well as the one's of administrators with the authority to act on behalf of the company, of all technical managers, agents and special agents empowered to represent the company and with continuing management powers;
- reports that in the year previous to the date of dispatch of the call for tender there were no subjects that were ceased to hold company office according to Section 7 of this Tender Regulation or reports the list of the subjects that ceased to hold the above-mentioned office in the year that preceded the call for tender.

### **9.1.3 Declaration of possession of requirements (to fill in Annex C.1)**

made under artt. 46 and 47 of the Presidential Decree of the 28 December 2000, no.445, or, for the tenderers residents outside Italy, equivalent suitable documentation according to the State relevant legislation, in which the tenderer, under penalty of exclusion, reports, indicating specifically, not to meet any of the conditions under Section 7 of this Tender Regulation.

It should be noted that:

- a) under penalty of exclusion, declarations mentioned in par. 9.1.1, 9.1.2 and 9.1.3, in case of Temporary Grouping of Companies, regular consortia of competitors, Business networks and European Economic Interest Grouping, must be released by all the economic operators that jointly apply for the tender;
- b) under penalty of exclusion, declarations mentioned in par. 9.1.1, 9.1.2 and 9.1.3, in case of Temporary Grouping of Operators, regular consortia of competitors, Business networks and European Economic Interest Grouping, must be released also by the members of the consortium that applies;



c) under penalty of exclusion, declarations under Section 7, sub. 1, sub. 2 c) must be personally given from each of the subject listed in the following:

- for sole traders: the owner and technical director,
- for collective partnerships: partner and technical director,
- for limited partnerships: managing partners and technical director,
- for other companies: administrators empowered to represent, technical director, sole shareholder whether natural person, or majority shareholder in case of company that counts less than four partners). In case of other companies, except for the collective and limited partnerships, consistent in just two partners, each with half of the shares, declaration must be submitted by both partners

(note that, for this purpose, **Annex C.2** to this Tender Regulation shall be submitted);

d) under penalty of exclusion, declaration under Section 7 sub.2 c) must be personally given also from each of the subject who have ceased to hold office in the year that preceded the date of dispatch of the call for tender and listed in the following:

- for sole traders: the owner and technical director;
- for collective partnerships: partner and technical director;
- for limited partnerships: managing partners and technical director;
- for other companies: administrators empowered to represent, technical director, sole shareholder whether natural person, or majority shareholder in case of company that counts less than four partners);
- In case of other companies, except for the collective and limited partnerships, consistent in just two partners, each with half of the shares, declaration must be submitted by both partners.

In case of incorporation, merger or company sale the above-mentioned declarations must be submitted also by administrators and technical directors that have worked for the incorporated, merged or sold company in the year that preceded the call for tender. If such subjects are in no condition to submit the requested declarations, this can be given by the legal representative, through a Self-declaration affidavit in which, according to art. 47 of the Presidential Decree of the 28 December 2000, no.445, it is stated the possession of the requested requirements, indicating by name the subject for which the declaration is given.

#### **Indications for tenderers that are collectively suitable and for consortia.**

**For Stable Consortia, cooperatives and craftsman's business consortia, it is mandatory to submit or focus on the following:**

- **under penalty of exclusion**, a certificate true copy of the instrument of incorporation and of the consortium's statute must be submitted, specifying the consortium member companies;
- declaration specifying the consortium member for which the consortium applies the tender; under which

circumstances the names of the consortium members that will provide the services and supplies in case of awarding the tender must be specified, besides the indication of the part of the service or supplies that will be provided from each consortium member.

- in case the consortium does not specify the consortium member for which the consortium applies the tender, is intended that it will apply on its own behalf;
- stable consortia must also declare to comply with the prohibition laid down in art. 36, sub. 5. of the Code of public contracts;
- cooperative consortia and craftsman's consortia must also declare to comply with the prohibition laid down in art. 37, sub. 7 of the Code of public contracts.

#### **In case the temporary grouping is already incorporated**

- **under penalty of exclusion**, in form of a public or authenticated deed, the collective irrevocable power of attorney conferred to the appointed lead company with indication of the subject legally authorized to represent the grouping;
- parts of the service or the supplies contracts that will be executed by single economic operators joined together;
- declaration that the temporary grouping complies with the prohibition under Section 7 sub 3.

#### **In case of regular consortia of competitors or European Economic Interest Grouping is already incorporated**

- **under penalty of exclusion**, a certificate true copy of the instrument of incorporation and of the consortium's or E.E.I.G. statute must be submitted, specifying the designed parent entity;
- declaration in which are specified, **under penalty of exclusion**, the parts of the service or the supplies contracts that will be executed by single economic operators joined together;
- declaration that the consortium complies with the prohibition under Section 7 sub 3.

#### **In case the temporary grouping, the regular consortia of competitors or the European Economic Interest Grouping are not yet incorporated:**

- **under penalty of exclusion**, declaration by each member of the not yet incorporated operator, stating that:

a) the economic operator which, in case of awarding the tender, will be appointed as lead company legally authorized to represent the grouping or parent entity;

b) the commitment to comply, in case of awarding the tender, to the temporary grouping, consortia or E.E.I.G. current regulation;

c) the parts of the service or the supplies contracts that will be executed by single economic operators joined together or become part of a consortium;

d) declaration of compliance regarding the prohibition under Section 7 sub 3.

**In case of Business Network Contracts: if the network has a parent entity incorporated and empowered to legally represent, according to art. 3, sub. 4-quat, of the Law Decree no.5, 10 February 2009:**

- **under penalty of exclusion**, a certified true copy of the network contract that specifies the parent entity that is empowered to represent the network. The certified true copy must be given in form of a public or authenticated deed;
- **under penalty of exclusion**, declaration, signed by the legal representative of the parent entity, that states on behalf of which, among businesses, the parent entity applies; tenderers legally represented by the network are prohibited to apply for the same tender in any other form;
- **under penalty of exclusion**, declaration, the parts of the service or the supplies contracts that will be executed by single economic operators joined together.

**In case of Business Network Contracts: if the network has a joint body, empowered to legally represent, but not incorporated, according to art. 3, sub. 4-quat, of the Law Decree no.5, 10 February 2009.**

- **under penalty of exclusion**, a certified true copy of the network contract, given in form of a public or authenticated deed, including the collective irrevocable power of attorney conferred to the appointed agent company; the indication of the subject appointed as agent and of the parts of service or the supplies contracts that will be executed by single economic operators joined the network.

**In case of Business Network Contracts: if the network has a joint body not empowered to legally represent, if this body do not met the requirements or if the network is unprovided with such a body:**

- **under penalty of exclusion**, a certified true copy of the network contract, given in form of a public or authenticated deed, including the collective irrevocable power of attorney conferred to the appointed agent company; the indication of the subject appointed as agent and of the parts of service or the supplies contracts that will be executed by single economic operators joined the network;

**(or as an alternative)**

- **under penalty of exclusion**, a certified true copy of the network contract, given in form of a public or authenticated deed. Declarations given by each business that participate in the network contract must be attached to the certified copy of the network contract. Those declarations concern:

a) the economic operator which, in case of awarding the tender, will be appointed as lead company legally authorized to represent the network or parent entity;

b) the commitment to comply, in case of awarding the tender, to the temporary grouping current regulation;

c) the parts of the service or the supplies contracts that will be executed by single economic operators joined together or become part of the network.

#### 9.1.4 Documentation about Economic and Financial Capacity requirements (to fill in Annex D)

Declaration made under art. 46 and 47 of the Presidential Decree of the 28 December 2000, no.445, in which the tenderer:

- declares to have had a stable financial situation in the last 12 months before the publishing of the present tender
- in the same period, not to have unjustified, prolonged delays in payments of creditors;
- declares to be aware of the fact that, in case of awarding of the Contract related to the present tender, he/she shall produce suitable certifications released by banking institution or authorized intermediary, according to the provisions in Section 16 of this Tender Regulation.

#### 9.1.5 Documentation about Technical Capacity requirements (to fill in Annex E)

- Declaration in place (**Annex E**) given according to art. 46 and 47 of the Presidential Decree 28 December 2000, no. 445 or, for the tenderers established outside Italy, the attached documentation must be of equal standing according to the State national legislation. In this equivalent documentation the tenderer, under penalty of exclusion, states that he realized, in the 3 years previous the date of publishing of this Tender one or more projects which refer to the field of competence of the lot for which the offer is intended to be made, identified by the descriptive document "Technical Specification", worth an aggregate overall total of no less than € 50.000,00 (fifty-thousand /00), V.A.T. excluded.
- In case of Temporary Grouping of Operators, ordinary consortia to be incorporated, European Economic Interest Grouping or business networks, the mentioned declaration in place (Annex E to the present Tender Regulation), must be submitted by each of the grouped companies, and must be legibly signed (in full first and last name) by who is respectively authorized to legally represent and commit the grouped companies (in case of person empowered duly to commit the company, a simple copy of the power of attorney should be attached). Such requirement can be cumulated, being understood that the parent entity must possess the requirement in a relative majority share; **all of this under penalty of exclusion.**
- In case of consortium of private undertakings as set forth in art. 34, sub. 1, lett. b) and c) of the Code of public contracts, such declaration in place must be submitted directly by the consortium, under penalty of exclusion. Consortia are allowed to prove eligibility through their member's eligibility, specifying them as executioners of the tender.

Please note also that, in any case, the lead company shall perform the relative majority of the services.

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In accordance with article 37, sub-section 8 of the Code of public contracts, for the submission of offers, Groupings are not required to assume a specific legal form. In case of awarding, the administration department will ask the documentation evidencing the establishment of a Temporary Grouping and the conferment, by the principals to the lead company, of a **special collective mandate** with representation and the related power of attorney, resulting from private deed with authenticated signature as prescribed by law, or by a certified copy of the same power of attorney, bearing explicitly:

- that the tenderers have an association in accordance with article 37 of Code of public contract;
- that the aforementioned temporary association pursues the aim to participate in one or more tender, with express indication of the tender subject of this notice;
- that the joint bid determines the joint liability of all grouped companies towards the administration department;
- that the power of attorney was given freely and that is irrevocable, and its withdrawal for just cause has no effect towards the administration department
- that the lead company has the exclusive power of representation, including the procedural representation, of the grouped companies towards the administration in relation to the Tender, until the termination of every relationship;
- each grouped company share of participation in the Temporary grouping, if not emerging from other submitted documentation.

In the event that the special collective mandate **representation and the related power of attorney** is submitted together with the documentation for participation, the lead company, in its own name and on behalf of the other companies, can sign the technical offer and the financial offer.

In the event that the Temporary Grouping Memorandum of Understanding does not contain the above mentioned clauses, or contains non-compliant information, the same Grouping can be admitted to the Tender, on condition that all the companies which constitutes the Grouping have submitted the declaration to commit to be compliant with the law in force for public procurement of services, with regard to temporary association.

If necessary, AGID may invite tenderers to complete or give in writing clarification in relation to the content of certificates, documents and declaration, in compliance with article 46 of the Code of public contracts.

The requested requirements and declarations shall be possessed at the time of participation to the procedure and the time of the awarding, and maintained in the execution phase for the whole duration of the Framework Agreement, under penalty of termination of the aforementioned.

## 9.2 CONTENT OF THE ENVELOPE "2 TECHNICAL OFFER"

For preparation and submission methods, please see Paragraph 11.1 of this Tender Regulation. The envelope containing the Technical Offer must be enclosed in the parcel mentioned in Section 8.

## 9.3 CONTENT OF THE ENVELOPE "3 FINANCIAL OFFER"

For preparation and submission methods, please see Paragraph 11.2 of this Tender Regulation. The envelope containing the Financial Offer must be enclosed in the parcel mentioned in Section 8.

## 9.4 CLARIFICATION FOR SUBMITTING DOCUMENTATION

All the requested declarations in place needed for participating the present tender procedure:

- must be released in simple copy, under art. art. 46 and 47 of the Presidential Decree of the 28 December 2000, no.445 signed by the tenderer (legal representative of the tenderer to tender or other subject empowered to contractually commit the tenderer); to this purpose the same declarations in place must be compelled with a copy of a valid I.D. of the tenderer; for each tenderer it is required just one copy of I.D., even in case of more declarations on different sheets;
- could be signed from procurers of the legal representative and in that case, a true certified copy of the act of authorization must be attached;
- must be given and signed by the tenderers, regardless of the structure chosen to participate in the tender, individually, grouped, as a consortium, linked in business networks, even though from eventual auxiliary enterprises, each one relatively to its part of competence.

Documentation to be supplied, when not expressly required in original can be presented in certified true or conformed copies as under art. 18 and 19 of the Presidential Decree of the 28 December 2000, no.445.

In case the tenderer is established outside Italy, the attached documentation must be of equal standing according to the State national legislation. Where any document or certificate described above is not issued in the country concerned, it may be replaced by a declaration on oath or, failing that, a solemn statement made by the concerned person in front of a competent Judicial or Administrative Authority, a notary or a qualified professional body in its country of origin or provenance.

All the documentation produced by the Tenderers must be in English; documents and certificates issued by local Authorities or third parties for legal purposes can be produced in the original language.

Declarations mentioned in this Section (annexes A, B, C.1, C.2, D and E) of the present Tender Regulation shall be typed on templates available at the internet address [www.agid.gov.it](http://www.agid.gov.it).

Declarations and documents can be object of requests for clarifications made by the Lead Contracting Authority, according to limitations and conditions listed under art. 46 of the Code of public contracts.

**Warning: In case of missing, incomplete or irregular documentation submitted by the contractors according to Paragraphs 9.1.2-9.1.3-9.1.4 and to Section 10, the Lead Contracting Authority will assign a term of maximum five (5) days to submit, complete or replace it. In case of un-useful expiry of this term the contractors will be excluded.**

## 10 USE OF ECONOMIC AND TECHNICAL REQUIREMENTS OF AUXILIARY COMPANIES

Pursuant to terms and conditions listed in art. 49 of the Code of public contracts the tenderer (individually, joined a consortium or grouped according to art. 34 of the Code of public contracts or according to Paragraph 6.3) can fulfil any request to prove its possess of the requested economic, financial and technical capabilities (Paragraphs 9.1.4 and 9.1.5) availing itself of requirements possessed by another subject, in application to the

so-called "principle of availment". To this purpose, the tenderer must submit, together with the documentation mentioned in the previous section, what follows:

a) declaration of availment signed by the legal representative of the tenderer company (if person empowered duly to commit the company, a simple copy of the power of attorney, must be attached) certifying the availment of the necessary requirement for applying to the tender, specifying the requirements of which intends to avail itself and of the auxiliary company.

b) declaration signed by the legal representative of the auxiliary company, according to Presidential Decree, no. 445/2000 (in case of person empowered duly to commit the company, a simple copy of the special power of attorney must be attached – a copy of an identity document must also be attached, under the penalty of exclusion), or in case the tenderer is established outside Italy, the attached documentation must be of equal standing according to the Member State national legislation. The equal standing documentation attached shall confirm the possess by the auxiliary company of the general requirements under Section 7 (**Annex C.1 and C.2**);

c) declaration signed by the legal representative of the auxiliary company, according to Presidential Decree, no. 445/2000 (in case of person empowered duly to commit the company, a simple copy of the power of attorney must be attached – a copy of an identity document must also be attached, under the penalty of exclusion), or in case the tenderer is established outside Italy, the attached documentation must be of equal standing according to the Member State national legislation. The equal standing documentation attached shall confirm the possess of the technical requirements and of the resources object of availment, by the auxiliary company.

d) declaration signed by the legal representative of the auxiliary company, according to Presidential Decree, no. 445/2000 (in case of person empowered duly to commit the company, a simple copy of the power of attorney must be attached – a copy of an identity document must also be attached, under the penalty of exclusion), that states the commitment , unconditionally and irrevocably to the tenderer and to AGID to make available the resources needed by the tenderer during all the tender's duration.

e) declaration signed by the legal representative of the auxiliary company, according to Presidential Decree, no. 445/2000 (in case of person empowered duly to commit the company, a simple copy of the power of attorney must be attached – a copy of an identity document must also be attached, under the penalty of exclusion), in which the auxiliary company states that is not applying individually, grouped nor as a member of consortium, for the same tender under art. 34 of the Code of public contracts;

f) contract of availment, in original or certified true copy, under which the auxiliary company commits to the tenderer to provide the requirements and to make available the necessary resources for all the tender duration; as an alternative, in case of availment of a company that belongs to the same grouping, declaration signed by the legal representative of the applying company that describes the legal and economic bound of the grouping.

In relation to the performances object of the contract, the tenderer and the auxiliary company are jointly liable to the Lead Contracting Authority.

Attention: under art. 49, sub. 3, of the Code of public contracts, in case of false statements, towards the signers, AGID will exclude the tenderer and will provide to the enforced payment of the guarantees provided,

transferring also the documents to the Italian National Anticorruption Authority (ANAC) for the application of the sanctions under art. 6, sub. 11, of the Code of public contracts.

It should be noted that in case of availment:

- it is not allowed, under art. 49, sub. 8, of the Code of public contracts, to the auxiliary company to be object of more than one availment contract, under penalty of exclusion for all the tenderers that have availed themselves of the same company;
- it is not allowed, under the recalled art. 49, sub. 8, of the Code of public contracts for the auxiliary company object of one contract of availment to participate individually in the same tender, under penalty of exclusion for the two companies.

**Warning: The absence of the contract of availment, of one of the requested declarations, or the non-compliance of their contents will lead to the exclusion of the tenderer through the lack of the requirements.**

## 11 FORMULATION OF OFFERS

Participating companies may submit an offer for one or more lots.

The offer shall be composed of a **technical offer** and a **financial offer**.

The technical offer, the financial offer, as well as the request of access to documents/files/records (see Paragraph 11.1), **under penalty of exclusion**, shall be **signed by the tenderer legal representative** (or by a person empowered duly to commit the tenderer).

In case of tenderers participating by way of grouped company (i.e. Temporary Grouping of Companies, Consortia, "Business Network Contracts"), the offers and the eventual request of access to documents/files/records, shall be signed, **under penalty of exclusion**, in accordance with the instructions for the signing of offers referred to in Paragraph 9.1.1.

As already specified in Section 8, the offers shall be submitted in envelopes bearing on the outside the tenderer name, respectively the wording "Technical Offer" and "Financial Offer" and the subject of this procedure.

The envelope containing the technical offer and the envelope containing the financial offer will then be included in the external parcel, together with the envelope containing the "Documentation".

The technical offer and the financial offer shall be drawn up in English.

### 11.1 Technical offer

The Technical offer shall be compliant to conditions specified in the documents "Technical Specification", in the related annexes, and in this Tender Regulation. Tenderers shall use the Template in Annex III "Template for technical offer" of the Contract Notice.

The technical offer will only refer to "Phase I", related to the solution design.



In order to allow the evaluation of the technical offer by the Technical Committee, the same offer **shall underline** the elements that permit the evaluation and the score assignment, in accordance with Paragraph 15.2

Furthermore, any deviation or non-compliance with the requirements specified in the document "Technical Specification", and in the related annexes, will not determine the exclusion of the offer from the procedure, but will be considered, instead, in terms of technical evaluation.

**Two copies on electronic format shall be added to the original document "Technical Offer".**

**In relation to the right of access to documents provided by articles 13 and 79, sub-sections 5-quarter of the Code of public contracts, where the information indicated in the technical offer and as justification of the same offer, constitute technical or commercial secrets, the tenderer shall give punctual evidence of such information, with a motivated and proven declaration of access.**

**In case the tenderer would not produce such declaration, or in case such declaration was not motivated nor proven, AGID will be released from the obligation of notification of any request of access pursuant to article 3 of DPR no. 184/2006. Furthermore, in the absence of such declaration, the technical offer will be considered fully accessible.**

No financial elements shall emerge from the above-mentioned documentation, under penalty of exclusion.

## 11.2 FINANCIAL OFFER

Tenderers shall use the following templates for the financial offer: ANNEX G – TEMPLATE of FINANCIAL OFFER (LOT 1),

ANNEX H – TEMPLATE of FINANCIAL OFFER (LOT 2), ANNEX I – TEMPLATE of FINANCIAL OFFER (LOT 3).

The amount and values specified below shall be indicated in **figures and in words**:

(Vo\_A)

The overall total value (in Euro) identified for completing “Phase I” - solution design.

The overall total value is the price for the realization of research and development services, in accordance with the documents “Technical Specifications” and “Technical offer”, to be performed in compliance with the requirements contained herein and in its attachments. The overall total value shall take in account the fact that part of the Intellectual Property Rights will be retained by the tenderer in accordance with the provisions of the Framework Agreement.

**Increased offers compared to the maximum amounts will not be accepted [which is established, for the first phase, respectively, for Lot 1 in € 40.000,00 (forty thousand/00), for Lot 2 in € 40.000,00 (forty thousand/00), for the lot 3 in € 30.000,00 (thirty thousand/00), excluding VAT], partial or conditioned.**

The financial offer shall also contain:

- an Estimated Full Price;
- a breakdown into cost categories and unit prices for each cost category.

The Estimated Full Price is the price that it would have been quoted if Intellectual Property Rights resulting from the execution of Phase I were fully retained by the Procuring Entity.

The breakdown into cost categories and unit prices for each cost category shall contain:

- the list of R&D resource categories (e.g. junior, senior researchers, developers, testers, etc.) that the tenderer plan to use for the execution of the services in Phase I. The list shall also contain resources for Phases II and III that are not expected to be used in Phase I;
- the unit price for each resource category;
- for each resource category, the minimum guaranteed quantity of resources for the execution of the services in Phase I.

The list shall include only the resource categories that are inseparable from and indispensable to deliver the R&D services that are executed through the present contract.

**Attention: Tenderers are bound to maintain the unit prices declared in the Financial offer for the entire duration of the Framework Agreement.**

### 11.3 DECLARATION OF SUBCONTRACTING

Subcontracting activities regarding the project is allowed, pursuant to article 118, of the Code of public contracts.

If the company intends to subcontract part of the activities to be awarded, within the maximum limit of 30% of the contractual price, such company, when submitting its offer, shall **declare the activities it intends to**

**subcontract and the measure of subcontracting** (in accordance with the module referred to in **Annex F** to this Tender Regulation).

No authorization to subcontract will be released by AGID in case the company does not submit such declaration.

Such declaration shall be signed by the tenderer legal representative (or by a person empowered duly to commit the company).

In case of Temporary Grouping of Companies/Consortia/E.E.I.G./Business Networks Contracts not incorporated yet, the Legal representative of each grouped company shall sign this declaration.

In case of Temporary Grouping of Companies/Consortia/E.E.I.G./Business Networks Contracts already incorporated, such single declaration shall be signed only by the Legal representative of the Lead grouped company, or by a person acting under special/general power of attorney, in its own name and on behalf of the other grouped company.

Under the present Tender Regulation, the successful tenderer wishing to use sub-contractors for the execution, must submit proper instance to AGID, attaching the documentation listed in art. 118, sub. 2 and 8 of the Code of public contracts (see **Annex F** to this Tender Regulation). The final term in art. 118, sub. 8, runs from the instance date of receiving.

AGID will not directly pay the subcontractors and the payments will be addressed to the contractor, who within twenty days from the payment, will transmit back to AGID copy of the received invoices (the accounting documents) issued by the subcontractor. If the contractor will not issue the mentioned invoices in due time, AGID will suspend the subsequent payment to the contractor.

Subcontracting does not imply any modification to obligations and charges of the contractor, who remains the only liable subject toward AGID.

Subcontracting declarations missing the exact description of the activities object of subcontract, or lacking in required information, will not be accounted as valid. Authorization to subcontract will not be issued in case of irregular declaration.

Declarations of subcontracting that do not specify exactly which part of the activity the tenderer intends to subcontract, or do not give the quantitative indication required, will not be considered regular.

No authorization to subcontract will be released in case of irregular declaration.

The declaration of subcontracting, compliant with the indicated conditions, shall be inserted in the envelope containing the financial offer.

## 12 COMMUNICATIONS

Without prejudice to the provisions of Paragraph 20.2 of the present Tender Regulation (request for clarifications), all communications and all information exchanges between the Lead Contracting Authority and economic operators are to consider valid and effectively transmitted when addressed to the elected domicile,

to the e-mail address, to the certified e-mail address (just for economic operators established in Italy), or otherwise to an available fax recipient, provided by the tenderer, and which use was expressly authorized by the tenderer according to art. 79, sub. 5-bis), of the Code of public contracts.

According to art. 79, sub. 5-bis), of the Code of public contracts. and art. 6, of the Legislative Decree 7 March 2005, no. 82, in case a certified e-mail address is provided, communications will be send exclusively or mainly through certified e-mail.

Any subsequent variation of the elected domicile, e-mail address, certified e-mail address or fax recipient, or any temporary malfunction of those communication instruments, must be promptly reported to the office, otherwise the administration declines every liability for the late or missed deliver of the communications.

In case of temporary groups, E.E.G.I., business networks or ordinary consortia, even if not yet incorporated, the delivered communication has to be considered valid to all the consortium members and grouped or networked companies.

In case of availment, the communication delivered to the tenderer has to be considered valid to all its auxiliary economic operators.

## 13 EVALUATION COMMITTEES

Tenders shall be evaluated in a non-discriminatory manner, in accordance with all the legal requirements provided for in article 84 of the Legislative Decree nr. 163/2006. For the purpose of the evaluation, the Lead Contracting Authority appoints the following international Evaluation Committees:

- An **Administrative Committee** for the selection of requests to participate or tenders based on exclusion and selection criteria. The Administrative Committee is composed by an odd number of evaluators, experts in procurement law, whereby each Contracting Authority listed in Paragraph 1.3 is entitled to appoint a national expert. At least one expert in Italian procurement law should compose this Committee. Evaluators shall open requests to participate and tenders. Only requests to participate or tenders that satisfy the provided requirements that are not excluded based on the exclusion criteria and that meet the selection criteria, shall be considered admissible for evaluation under the award criteria.
- **Technical Committees** for the evaluation of tenders based on the award criteria (one Technical Committee for each lot). Each technical committee is composed by an odd number of evaluators, experts in the specific field covered by the scope of the contract, whereby each Contracting Authority is entitled to appoint a national expert per lot.

In order to guarantee fairness and transparency, the evaluator's appointment and the establishment of the Evaluation Committees shall take place after the expiry of the deadline for the submission of tenders.

Members of the Evaluation Committees nominated or designated by the Lead Contracting Authority and the Contracting Authorities shall be appointed *ad personam*. When carrying out their tasks, they shall not seek or

take instructions from the Lead Contracting Authority institutions, bodies, offices or agencies, from any government of a Contracting Authority or from any other body.

The Contracting Authorities undertake to respect this principle and not seek to influence the members of the Evaluation Committees in the performance of their tasks.

Each member of the Evaluation Committees shall sign Declaration of absence of conflict of interest and protection of confidentiality.

## 14 AWARDING PROCEDURE

This *pre-commercial procurement* procedure is published in compliance with article 19 and 27 of Code of public contract.

The tender, for each lot, will be awarded pursuant to article 83 of Code of public contracts – to the **most economically advantageous tender**, based on criteria and weighting factors specified in Section 15.

At the day and time decided, the Administrative Evaluation Committee, during the first open session, will open the received parcels and verify the completeness and regularity of the administrative documentation submitted, and, if not, to the exclusion of the tenderer from the procedure.

In this session of the Administrative Committee, to subsequent sessions open to the public may assist a person in charge of each competitor whose name, on consideration of the procedures for the access by third parties to AGID premises, must be communicated via e-mail at the address [C4E-tender@agid.gov.it](mailto:C4E-tender@agid.gov.it) or via fax at +39.6.85264.372 to the attention of the <Area Cittadini, Imprese e Trasferimento Tecnologico > **within the day preceding the session date**, with a copy of an identification document with a photograph.

The access and attendance of the tenderer representative at the premises where the Tender procedures will take place are subjected to the respect of AGID access and safety procedures regulations, and to the exhibition of an original identification document (i.e. no copy).

The person in charge of the tenderer shall arrive at AGID premises at least ten (10) minutes before the times set for each session open to the public, in order to allow AGID staff to proceed to its identification.

During the first session, the Administrative Evaluation Committee will open the envelopes containing the technical offers, to verify their formal regularity, and to submit them in a separate envelope sealed in the course of the same meeting to the Technical Evaluation Committee, for the allocation of scores assignment for the awarding purposes.

The Technical Evaluation Committee will evaluate each technical offer elements; it will proceed with the score assignment, in accordance with the following Paragraph 15.2, and will prepare special reports that will be submitted to the Administrative Evaluation Committee at the end of the evaluation.

Following the evaluation of the technical offers, AGID will fix, well in advance, upon notice via email or fax, a specific public session in order to communicate the technical scores assigned to each tenderer, to open the envelopes containing the financial offers and to read the prices offered by each tenderer.

The same session will proceed, then, with the score assignment by applying the formula specified in the following Paragraph 15.3, and by drawing up the tender ranking.

The final awarding of each lot, will be disposed for those tenderers who have submitted the most economically advantageous tender, that is, those who obtained the highest overall scores, for each lot, subsequent to the sum of the assigned total scores, resulting from the technical offer and the financial offer.

In case of offers with equal scores, there will be a random draw in a public session.

Please note that Phase I (*Solution Design*) regarding the solution design, envisages a maximum of 10 (ten) Contractors for each Lot.

The Contractors possession of the requirements to participate will be evaluated according to Section 16. The failure to produce the documents or its non-correspondence to the declarations will be considered as a Contractor refusal to sign the Agreement; the same Contractor will be excluded, and the fact will be reported to the relevant authorities. The Framework Agreements will be signed by AGID within the terms to be subsequently communicated by AGID to each of the Contractors via e-mail or fax or certified email (for the sole economic operators established in Italy).

## 15 EVALUATION MODEL

### 15.1 AWARDING CRITERION

Each lot of this Tender is awarded on the basis of **the most advantageous economic tender**, from a total of 100 points, assigned as follows:

- a) Technical offer: maximum score 80
- b) Financial offer: maximum score 20

The same criteria will be applied to the awarding of Phase II and Phase III.

### 15.2 EVALUATION OF THE TECHNICAL OFFER

Maximum of 80 points will be assigned to the Technical offer, on the basis of the evaluation criteria specified in the following table, which is valid for all the tender lots. The Table defines the following criteria: Challenge, Impact, Security and Quality. Each Criteria is further detailed in sub-criteria. Last column of the table defines the minimum score that the offer evaluation shall overcome in order to be eligible for the award of the Framework contract. Minimum scores are associated to the following criteria: Challenge, Security and Quality. A more detailed description of the sub-criteria is in Paragraph 15.6.

	Evaluation Criteria	WEIGHTS PHASE I	WEIGHTS PHASE II	WEIGHTS PHASE III	MINIMUM SCORE

	(CRITERIA and SUB-CRITERIA)				
<b>C</b>	Challenge	20	19	19	>50%
<b>C1</b>	Likelihood to meet the challenges of the lot	5	7	9	
<b>C2</b>	Overall contribution to realize the Usage scenario described in Section 1.4 of the "Annex IV(A): Challenges and general requirements	2	3	4	
<b>C3</b>	Degree of fulfilment of the challenge	4	3	3	
<b>C4</b>	Innovation level (motivation by bidders)	9	6	3	
<b>I</b>	Impact	25	13	10	N.A.
<b>I1</b>	Impact on (digital) society, multiplier effects	7	3	1	
<b>I2</b>	Impact on government cloud adoption	7	3	1	
<b>I3</b>	Public sector service impact	5	2	2	
<b>I4</b>	Commercialisation and exploitation plan of IPR	2	2	3	
<b>I5</b>	Proposed sharing of risk and benefits	4	3	3	
<b>S</b>	Security	13	23	22	>50%
<b>S1</b>	Risk assessment impact (C, I, A dimensions)	0	3	1	

<b>S2</b>	Risk analysis	5	6	6	
<b>S3</b>	Risk mitigation measures	4	6	6	
<b>S4</b>	System management security	0	3	3	
<b>S5</b>	Operational security, proposed certifications	4	5	6	
<b>Q</b>	Quality	22	25	29	>50%
<b>Q1</b>	Portability, applicability in different architectures	9	6	5	
<b>Q2</b>	Bid document quality, focus on challenge and solution	5	3	3	
<b>Q3</b>	Quality of project plan, resources allocation, acceptance plan	2	3	6	
<b>Q4</b>	Alignment with EU standards and legislation	2	2	1	
<b>Q5</b>	Resilience and target service SLA	0	3	4	
<b>Q6</b>	Completeness of the proposed prototypes and pilot	2	3	4	
<b>Q7</b>	Early/continuous quality assurance	2	2	3	
<b>Q8</b>	Performance and end-user experience	0	3	3	
	Total	80	80	80	

**Table 3: "Evaluation Criteria: criteria and sub-criteria (Lot 1,2,3)"**

Each member of the Technical Evaluation Committee will assign to each of the sub-criteria an assessment made by a coefficient between 0 and 1, giving motivation, as shown in table 4.



SCORES	SUMMARY JUDGEMENTS	DESCRIPTION	MOTIVATION
1	Outstanding	Close to perfection, add significant added value in addition to the required feature	
0,9	Excellent	All important aspects are present and the described solution is very convincing	
0,8	Very good	All important aspects are present and the described solution is convincing	
0,7	Good	All important aspects are present, without doubts	
0,6	Almost good	All important aspects are present, but some aspects may raise doubts	
0,5	Fair	All important aspects are present, but the described solution may not convince	
0,4	Weak	The described solution is not convincing	
0,3	Very weak	Some important aspects are missing	
0,2	Negative	Multiple important aspects are missing	
0,1	Negative	Almost all important aspects of are missing	
0	Negative	None of the aspects of the requirements are met	

**Table 4: “Summary judgments”**

The value of the temporary coefficient  $B_i$  (where  $i$  is the sub-criteria) will be determined by the average of the coefficient received by the members of the Technical Committee. That so determined temporary coefficient will be rounded down to the second decimal place.

The score will be assigned to each sub-criteria  $i$  by applying the following formula:

$$(B_i * Q_i)$$

where:

**$B_i$**  = coefficient between 0 and 1, assigned according to Table 4

**$Q_i$**  = weight (single weight) assigned to each sub-criterion (as described in Table 3)

The calculation for the assignment of all scores will take into account the first two decimal numbers.

The sum of the partial scores assigned to each sub-criteria of the four criteria will determine the overall score awarded to each of the four criteria: Challenge, Impact, Security and Quality. An offer that does not reach the minimum score related to any of the three criteria: Challenge, Security and Quality, will be not be considered for the awarding of the Framework Contract and will be excluded from any other evaluation.

The sum of the partial scores given to each sub-criteria will determine the final score assigned to the technical offer, according to the following formula:

$$P_{tec\_A} = \sum (B_i * Q_i)$$

### 15.3 EVALUATION OF THE FINANCIAL OFFER

The Technical Evaluation Committee will open the envelope containing the financial offer for those companies who reached in the technical offer evaluation, the minimum scores provided in Table 3.

The score related to the "Financial Offer" criterion will be determined as follows:

- the maximum price allowed for the Lot is identified as ( **$V_{max}$** );
- $V_{o\_A}$  is the financial offer related to the Research and development project;
- the financial score will be assigned to the financial offer  $V_{o\_A}$  according to the following formula:

$$P_{fin\_A} = P_{max\_A} * \frac{V_{max} - V_{o\_A}}{V_{max}}$$

Where:

- **$P_{fin\_A}$**  is the score assigned to the financial offer related to the research and development project;

- **$P_{max\_A}$**  is the maximum score to be assigned to the offer (**20 points**);

## 15.4 EVALUATION OF THE TOTAL OFFER

The final score will be assigned to each offer as follows:

$$P_{tot\_A} = P_{tec\_A} + P_{fin\_A}$$

The calculation for the assignment of all scores will take into account the first two decimal, without rounding.

## 15.5 FINAL CLASSIFICATION

The output of the evaluation procedure is the list of offers that have reached the minimum technical score, ordered by score from the higher (rank first) to the lower.

The bidders will be awarded from the first in the list to the last one. Each bidder will be awarded with its offered price.

The list will be scrolled until one of the following situation occurs:

1. the maximum number of awarded bidders has been reached

**OR**

2. the residual amount of available resources for the first phase of the lot is less than the price offered by the Tenderer.

## 15.6 SUB CRITERIA NOTES

Following table gives further explanation on some of the criteria and specific evaluation methods. The table refers also to the Questionnaire enclosed in "ANNEX III to the Contract Notice: template for technical offer".

ID	Detailed description	AWx Evaluation method comment
<b>C</b>	<b>Challenge</b>	
C1	Likelihood to meet the challenges for the lot	Evaluators will use the description of the proposed solution.  The questionnaire item Q-C1 also lets the bidders explain why proposed approach is likely to succeed in solving the challenge.
C2	Overall contribution to realize the Usage scenario described in Section 1.4 of the	Evaluators will use the description of the proposed

	“Annex IV(A): Challenges and general requirements	<p>solution.</p> <p>The questionnaire item Q-C1 also lets the bidders explain why proposed approach is likely to succeed in solving the challenge.</p>
C3	Degree of fulfillment of the challenge	The answers to question Q-C3 will be used to assess this criterion
C4	Innovation level PCP is a means of funding research that will lead to innovation. Bidders are expected to explain why their proposed solution is not classical service development that just builds on existing products and services.	The evaluators are expected to assess whether the proposed solution requires sufficient research and leads to innovation. See question Q-C4.
<b>I</b>	<b>Impact</b>	
I1	Impact on (digital) society in Europe; Multiplication effects in other areas	Evaluation is mainly based on answer to question Q-I1
I2	Impact on government cloud adoption	Evaluation is mainly based on answer to question Q-I2
I3	Public sector service impact	Evaluation is mainly based on answer to question Q-I3
I4	Commercialization plan and exploitation of IPR	<p>Evaluation is mainly based on answer to question Q-I3</p> <p>Creating new business opportunities, especially in Europe will be one of the important aspects.</p> <p>Exploitation of IPR can be done in many ways, by protecting and exploiting it, or by opening it to the public. In the latter case, the plan has to show that opening the IPR creates new business opportunities or makes government more efficient.</p>
I5	Proposed sharing of risk and benefits  This criterion tries to represent procurer interest and future benefits procurers and other government agencies may receive as compensation for the funding of the	<p>Evaluators will use the answer to questionnaire question Q-I5 to assess the value of the proposed compensation/sharing/reduction in license costs for future products.</p> <p>The evaluation team will try to translate the proposals</p>

	innovation.	to a 'value' represented in the generic scoring scale table.
<b>S</b>	<b>Security</b>	
S1	<p>The bidder is expected to make a risk impact assessment for the proposed solution (not for the project) in order to determine the damage level for <i>Confidentiality, Integrity and Availability</i> breaches. A separate assessment is required for the 3 dimensions C, I, A.</p> <p>S1 focuses on the sensitivity of the applications and its data, not on the technical implementation.</p> <p>The impact analysis must be used as a base to plan appropriate organizational, operational and technical security measures that should be used in future production deployments.</p> <p>In addition to the risk impact level for the C, I, A dimensions, the desired RPO (recovery point objective) and RTO (recovery time objective) need to be negotiated. The bidders should make an initial proposal in their offer</p> <p>For phase1, bidders are allowed to use a EU member state national risk assessment scale (e.g. UK's HMG IA Standard nr. 1, appendix A), for later phases, <i>Cloud for Europe</i> may impose another certain risk impact scale.</p> <p>In a normal procurement, the contracting authority determines the impact level and RPO/RTO objectives, in the PCP context, this is a joint effort.</p>	<p>A first draft risk impact analysis for the 3 dimensions (C, I, A) should already be present in the bid for Phase II and III.</p> <p>Evaluation is mainly based on answer to question Q-S1</p>
S2	<p>Risk analysis</p> <p>In contrast to S1, S2 focuses on the nature of the risks related to the proposed solution</p>	<p>Evaluation is mainly based on answer to question Q-S2</p> <p>Bidders are expected to at least explain the risk analysis they will perform. An initial risk analysis in the bid is an</p>

	(not on the impact level of a breach as in S1). The bidders are expected to document how they perform the risk analysis for the project and the resulting service.	<p>additional advantage.</p> <p>For Phase II and especially for Phase III a outline for the risk analysis must already be part of the bid.</p> <p>Verification will also bi done during acceptance tests (ACx)</p>
S3	<p>Risk mitigation measures</p> <p>For the risks identified in S2, explain which countermeasures will be taken (both project and service related risks).</p>	<p>Evaluation is mainly based on answer to question Q-S3 and Q-S4.</p> <p>For phase1, this answer can be brief or focus on the methodology that will be used.</p> <p>For phase2 and phase3, the most important measures must already be described in the bid.</p>
S4	<p>System management security</p> <p>Applications are not only vulnerable; we also must make sure that the way in which the application and underlying infrastructure layer is protected.</p>	<p>Evaluation is mainly based on answers to question Q-S3 and Q-S4</p>
S5	<p>Operational security, proposed certifications (for the service or for the underlying infrastructure layers) foreseen for the piloting phase.</p>	<p>Evaluation is mainly based on answers to question Q-S5</p>
<b>P</b>	<b>Price</b>	
P1	Price current phase	<p>Price will be evaluated independently from the other dimensions/criteria.</p> <p>For the price criterion, the definitions of the generic scoring scale are not applicable. There is a maximum price for the different phases. A price greater than the maximum price (<i>Pmax</i>) will lead to exclusion.</p>
<b>Q</b>	<b>Quality</b>	
Q1	Avoiding lock-in, portability and	<p>Evaluation is on an assessment by the evaluators,</p>

	<p>applicability in different architectures.</p> <p>Avoiding lock-in is a key consideration when adopting cloud services. This can be achieved in many ways, but relying on a single service provider without alternative may be very dangerous.</p> <p>Solutions that by design can be supported by multiple cloud providers can overcome this concern.</p>	<p>considering also the answer to question Q-Q1</p> <p>Evaluators will base their score on considerations like:</p> <ul style="list-style-type: none"> <li>• How easy is it to re-implement the same solution in case the service provider goes out of business or cannot be used anymore for other reasons</li> <li>• How independent is the application layer from the underlying infrastructure layer?</li> <li>• Is the product based on open API's</li> <li>• Does the IPR for the solution foresee licensing to other cloud providers (at a reasonable cost)</li> <li>• Is synchronization of data to another (disaster recovery provider) possible?</li> <li>• Will the proposed solution be supported by current cloud brokers</li> </ul>
Q2	<p>Bid document quality, focus on challenge and proposed solution</p>	<p>Evaluators will appreciate:</p> <ul style="list-style-type: none"> <li>• Clear descriptions of the efforts and commitments</li> <li>• Simple document structure compliant with the structure of the RFP questionnaires</li> <li>• Non-essential information should be placed in annex</li> <li>• Areas of non-compliance with RFP requirements should be clearly marked</li> </ul>
Q3	<p>Quality of project plan, resources allocation, acceptance plan</p> <p>Please note that due to the innovative nature of PCP projects, acceptance tests are not expected to prove that the prototype and development efforts have succeeded. The acceptance plan proposal should at least prove that a significant effort has been done to address the challenge and that competent resources have addressed the challenge.</p>	<p>Evaluation mainly based on answer to question Q-Q3</p>
Q4	<p>Alignment with EU standards and legislation</p>	<p>Mainly based on answer to question Q-Q4</p>

	<p>(data protection).</p> <p>(assuming the solution processes government and citizen data)</p>	<p>The proposed solution must be compliant with all EU data protection standards and legislation regarding security and data protection.</p>
Q5	<p>Resilience and target service SLA</p> <p>The proposed solution must be inherently resilient so that a high availability SLA can be reached.</p> <p>Other (non-availability related) SLA KPI's are also important, cross-border multi-language applications have some additional SLA challenges (service desk, incident response, ...)</p>	<p>Evaluation based on design description Q-G1 and question Q-Q5</p>
Q6	<p>Scope of the proposed prototypes and pilot</p>	<p>Evaluation is based on the general description and on the answer to question Q-Q6</p> <p>Bids will obtain a good score</p> <ul style="list-style-type: none"> <li>• if the move from pilot to a full production version does not require a full architecture redesign</li> <li>• or if a realistic assessment has been made by the bidder and the bidder is planning to continue the development from pilot to product/service</li> </ul>
Q7	<p>Early/continuous quality assurance</p> <p>The bidders are expected to use early / continuous quality assurance tools. Example proposals that may lead to a better evaluation for this criterion:</p> <ul style="list-style-type: none"> <li>• Use of "Quality gates" or similar techniques for early quality assurance</li> <li>• Propose site visits to development site to assess security awareness of development team</li> <li>• ...</li> </ul>	<p>Evaluation is mainly based on answer to question Q-Q7</p>



Q8	Performance and end-user experience	Evaluation partly based on the answer to question Q-Q8
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**Table 5: Sub-Criteria Notes**

## 16 DOCUMENTATION TO BE SUBMITTED BY THE CONTRACTOR

For the purposes of Section 7 of this tender, if deemed appropriate, AGID shall ask to candidates or tenderers to supply the documents referred in this Section. AGID may also, where doubts concerning the personal situation of such subjects persists, apply to the competent authorities asking for any information considered necessary on the personal situation of concerned candidates or tenderers. Where the information concerns a candidate or tenderer established outside Italy, the contracting authority may seek the cooperation of the competent authorities. Having regard for the national laws of the State where the candidates or tenderers are established, such requests shall relate to legal and/or natural persons, including, if appropriate, company directors and any person having powers of representation, decision or control in respect of the candidate or tenderer.

AGID where appropriate, shall, ask the following as sufficient evidences that none of the cases specified in Section 7, sub. 1, 2(a), (b), (c), (e) and (f) of this tender, applies to candidates or tenderers:

- as regards in Section 7, sub. 1, 2(a), (b), (c) of this tender, the production of an extract from the 'judicial record' or, failing that; the production of an equivalent document issued by a competent judicial or administrative authority in the country of origin (or in the country of residence of the candidates or tenderers) showing that these requirements have been met;
- as regards Section 7, sub. 2(e) and (f), a certificate issued by the competent authority in the Member State concerned.

Where the country in question does not issue such documents or certificates, or where these do not cover all the cases specified in Section 7, sub. 1 and 2(a), (b) and (c), they may be replaced by a declaration on oath or, in States where there is no provision for declarations on oath, by a solemn declaration made by the concerned person before a competent judicial or administrative authority, a notary or a competent professional or trade body, as in the country of residence of the candidates or tenderers.

Candidates or tenderers shall also provide demonstration of the financial and economic capabilities through suitable certification, statements or references of at least one banking institutions or intermediary:

- if, for legitimate reasons, included the one concerning the incorporation or the starting of activity in the previous three years, the contractor is not able to submit the requested references, it can demonstrate such financial and economic capabilities by providing any other document; among which: statement of the undertaking's overall turnover, financial statement, an extract of the financial undertaking's statements.

- in case of tenderers collectively suitable, each of the companies that will participate in the future grouping, ordinary consortium, E.E.I.G. or Business Network Contracts, must submit bank references. Such requirement can be cumulated, being understood that the parent entity must possess at least one suitable certification;
- in case of consortium of private undertakings as set forth in art. 34, sub. 1, lett. b) and c) of the Code of public contracts, such bank certifications must be submitted directly by the consortium, under penalty of exclusion. Consortia are allowed to prove eligibility through their member's eligibility, specifying them as executioners of the tender.

**Warning: If considered appropriate, Lead Contracting Authority may ask to the contractors to submit a declaration on oath translated in English of the documents and certificates produced by local Authorities in the original language.**

## 17 DEPOSIT

In order to be able to sign the Framework Agreement, the awarded companies in each lot shall provide, as a guarantee of the obligation undertaken with the Framework Agreement, a deposit by entering into a bank guarantee or by insurance policy, or policies contracted with an authorized intermediary pursuant to article 106 of Legislative Decree no. 385 of September 1, 1993, who perform an exclusive or prevalent activity of issuing guarantees, and who are subject to audit, by an audit firm registered in the public register provided by article 161 of Legislative Decree no. 58 of February 24, 1998.

Such deposit may be guaranteed also in cash, current public debt securities or State guaranteed bonds, given as guarantee.

In case the company provides a bank guarantee or policy of insurance or policy issued by financial intermediaries, the same shall respect the following provisions:

- declaration replacing attested affidavit, by which the signer declares, by signing, its power to commit the company issuing the guarantee towards the Lead Contracting Authority;
- maximum price or guaranteed amount equal to **the 2% of the contract value** for each lot eventually increased or reduced in accordance with the law in force.

Explicit indication, under penalty of exclusion, of all the following clauses:

a) "the guarantee provided with this deposit is valid until AGID release the principal debtor and arrange the consequent restitution of the original deposit";

b) "the guarantor is jointly and severally obliged with the principal debtor to the payment of the guaranteed debt, without any benefit of prior enforcement of the principal debtor pursuant to article 1944 of the Italian Civil Code, nor the exception provided by article 1957, sub-sections 1 and 2, of the Italian Civil Code; furthermore, the guarantor undertakes to pay, without any previous consent from the guaranteed debtor, which will not be entitled to rise any objections about the payment, and within the limits of the guaranteed amounts, when formally requested by AGID, by registered letter with acknowledgment of receipt; the

guarantor waives to rise any exception in relation to the same payment. The payment shall be executed within 15 days from the date of receipt of the request for payment, given that for each day of delay in the payment, in addition to the guaranteed amounts, interest at the statutory rate in force shall be paid”;

c) “no failure to pay the premium, the premium surcharges, nor any fees agreed for the deposit release can be claimed on AGID”;

d) “the competent court for the settle of any dispute arising against AGID is the one in which AGID has its registered office”;

The deposit is released in accordance with provision of article 113, sub-section 3, of the Code of public contracts. For the purpose of signing the Framework Agreement, the Contractors will be asked to guarantee a deposit equal to the 2% of the contractual amount related to Phase I only, of the relative lot. Furthermore, a deposit shall be guaranteed also for each subsequent Executive Deed for phase II and III, in each lot, equal to the 2% of the amount of the relevant lot. AGID will then release the deposit guaranteed by the contractor in the previous phase.

Such deposit shall be provided within 20 (twenty) days from AGID request.

The failure to establish the deposit entails the awarding revocation from AGID, which will be entitled to award the pre-commercial procurement to the tenderer who follows in the list.

Bank guarantees or Policies of Insurance that contain clauses which provides any kind of charges on AGID or that are non-compliant with the provisions contained in this Tender Regulation, shall not be accepted.

Bank guarantees or policies of insurance that are non-compliant with provisions contained in this Tender Regulation shall be tailored to the same provisions, under penalty of award revocation.

The mentioned guarantees cover the charges for lack of, or improper, performance, and it will be released in full, at the contractual expiration, upon the provided request that the exact fulfilment of all the obligations arising from the relevant Phase Executive Deed has been verified.

If the guaranteed amount should be reduced, due to the application of penalties, or for any other cause, the Contractor shall provide for the reinstatement.

## **18 LIABILITY AND INSURANCE POLICIES**

In case of omissions, negligence or other non-compliance by an awarding company or its subcontractor(s) in a lot related to the execution of the contract, they shall be held liable for injury or damages suffered as a consequence thereof by the Lead Contracting Authority, including the Contracting Authorities. The awarding companies guarantee that they are sufficiently insured according to the business customs in that particular trade.

## **19 INTERMEDIATE DIALOGUE**

Due to the innovative and more risky nature of a PCP process, acceptance criteria cannot only be based on the result, but must also consider the effort the contractor has performed to meet the challenge. An objective assessment of this effort is not straightforward.

After the contract has been awarded for a phase, and before the acceptance procedure, a continuous dialogue between **Lead Contracting Authority** and contractors is maintained.

## 20 ADDITIONAL INFORMATION

### 20.1 WARNINGS

Without any prejudice for the expressed exclusion cases, provided by this Tender Regulation, AGID will exclude those tenderers which:

- fail to comply with the legislative specification provided by the law in force;
- have, regarding the tender's content or provenance, a situation of absolute uncertainty due to lack of subscription or of other essential elements;
- show, regarding the parcel containing the offer or the request for participation, a condition of non-integrity or other irregularities relating to the sealing of parcels; which constitute, according to the specific circumstances, violation of the principle of secrecy of tenders.

The Tender will be valid and binding for the company for **180 (one hundred and eighty) days** from the expiry of the deadline set for the reception of the offer. Pursuant to article 11, sub-section 6, of Code of public contract, AGID may ask the tenderers for the deferral of such deadline.

AGID reserves its right not to proceed with the awarding or to suspend or terminate the awarding procedure, in respect of one, two or all lots, for justified reasons of public interest. AGID will notify then its decision to all the tenderers.

AGID may authorize the anticipated beginning of the activities covered by this pre-commercial procurement immediately after the awarding and before the stipulation of the relevant Framework Agreement, subject to the acquisition of the necessary documentation and delivering of guarantees, pursuant to Sections 15.6 and 17 of this Tender Regulation, and subject to the verification of absence of the impedimental causes established under the anti-mafia provisions in force, within the terms to be notified subsequently to the awarding company.

Tenderers are invited to prepare in due time the documentation and guarantees mentioned above.

The Legislative Decree no. 196 of June 30, 2003 ensures that data will be processed in respect of fundamental rights and freedoms, as well as in respect of the interested party dignity, with particular reference to confidentiality, personal identity and the right to protection of data.

The processing of data that AGID intends to carry on will be based on legality and fairness, in full respect of its rights and its confidentiality, in accordance with article 13 of Legislative Decree no. 196/2003.

Pursuant to article 13 of Legislative Decree no. 196/2003, tenderers are informed that:

- the data provided by tenderers will be processed exclusively with reference to the procedure for which they have submitted the documentation;
- the processing of data will be handled by paper and/or electronic means;
- the provision of data is mandatory in order to initiate the procedure involving the tenderers for the contracts awarding;
- the Data Controller is AGID;
- the Data Processor is Marco Bani, Agid Technical Secretary.

The tenderer, at any time, may exercise its rights towards the Data Controller, pursuant to article 7 of Legislative Decree no. 196/2003.

Person in charge of the Procedure is Marco Bani, Agid Technical Secretary.

## 20.2 REQUEST FOR CLARIFICATION

Any clarification, procedural and technical information can only be requested in writing, even via email or fax, to the following address:

**Agenzia per l'Italia Digitale (AGID)**

**Via Liszt, 21**

**00144 ROMA, ITALY**

**Email: [C4E-tender@agid.gov.it](mailto:C4E-tender@agid.gov.it)**

**Fax no: +39.(0)6.85264.372**

Strictly by no later than the 26<sup>th</sup> of February, 2015. The requests must indicate the names of the Companies representatives, their telephone numbers, email address or fax numbers. Responses to queries and requests that AGID may consider of general interest will be published anonymously, without reference to the person and or company that made the query or posed the request, on the AGID website at [www.agid.gov.it](http://www.agid.gov.it) at least 10 (ten) days prior to the deadline for submitting applications to take part in the procedure.

Agenzia per l'Italia Digitale – AGID

The General Director

Mrs. Alessandra Poggiani

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ANNEXES TEMPLATE  
TO THE TENDER REGULATION

## 21 ANNEX A- REQUEST FOR PARTICIPATION

### SAMPLE REQUEST FOR PARTICIPATION

To:  
Agenzia per l'Italia Digitale (AGID)  
Via Listz, 21  
00144 – Roma  
Italy

#### SELF-EXECUTED AFFIDAVIT AND CERTIFICATION

(Presidential Decree no. 445, December 28, 2000)

Subject: RESEARCH AND DEVELOPMENT PROJECT (*PRE COMMERCIAL PROCUREMENT*) ON “Cloud for Europe” – Tender number: 5843932 – CUP: C58I13000210006

I, the undersigned \_\_\_\_\_

*[surname and name]*

born in \_\_\_\_\_ (\_\_\_\_\_), on \_\_\_\_\_

*[state] [city] [date]*

resident in \_\_\_\_\_ (\_\_\_\_\_),

Street \_\_\_\_\_, no. \_\_\_\_\_

*[place] [city] [address]*

on behalf of the Tenderer “ \_\_\_\_\_ ”

with registered office in \_\_\_\_\_ (\_\_\_\_\_),

Street \_\_\_\_\_, no. \_\_\_\_\_

*[state] [city] [address]*

in my capacity of:

*[please tick the appropriate box]*

- Owner or Legal representative, or
- under Special/General power of attorney

participating in the Call for tender in subject in my capacity of:

*[please tick the appropriate box]*

- Individual Company (let. a), art. 34, Code of public contract);
- Company (let. a), art. 34, Code of public contract), specify type of Company:

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\_\_\_\_\_;

- Consortium between Cooperatives (“Consorzio fra società cooperativa di produzione e lavoro”) (let. b), art. 34, Legislative Decree no.163/2006);
- Consortium between Craft businesses (“Consorzio tra imprese artigiane”) (let. b), art. 34, Legislative Decree no.163/2006);
- Stable Consortium (let. c), art. 34, Legislative Decree no.163/2006);
- Lead company of Temporary grouping of Companies (let. d), art. 34, Legislative Decree no.163/2006):
  - incorporated
  - to be incorporated;
- Lead company of regular consortium (let. e), art. 34, Legislative Decree no.163/2006):
  - incorporated;
  - to be incorporated;
- Lead company of Business Networks (let. e-bis), art. 34, Legislative Decree no.163/2006
- E.E.I.G. (let. f), art. 34, Legislative Decree no.163/2006);
- Economic Operators established in a different E.U. Member States, according to the provision applicable in their relevant country (let. f-bis), art. 34, Legislative Decree no.163/2006)  
\_\_\_\_\_;

#### HEREBY REQUEST

To participate in the public procedure (*pre commercial procurement*) for the signing of a Framework Agreement, in relation to the implementation of a Research and Development Project on “Cloud for Europe”, for the following lot:

- Lot 1 “Federated Certified Service Brokerage”;



- Lot 2 “Secure, Legislation – Aware Storage”;
- Lot 3 “Legislation Execution”.

HEREBY DECLARE

Under my own personal responsibility, fully aware that in the case of fraudulent statements the penalties provided by law shall apply, pursuant to article 76 of Presidential Decree no. 445 28.12.2000:

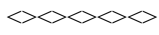
1. That pursuant to and by effect of article 13, Law no. 196/2003, I am aware that personal data gathered will be handled using IT and other tools exclusively within the framework of the procedure for which this statement is being issued;
2. That I am aware that AGID reserves the right to undertake *ex officio* procedures to check - including on a sample basis - the accuracy of declarations;

Pursuant to and by effect of article 79, sub-section 5-*quinquies*, Legislative Decree no. 163/06, state as my address \_\_\_\_\_ and specify the following email address, certified email address (only for economic operators established in Italy) and/or fax number \_\_\_\_\_ to receive procedure-related communications.

\_\_\_\_\_, \_\_\_\_\_  
*[place and date]*

Signature \_\_\_\_\_  
*[stamp and legible signature]*

for the Company \_\_\_\_\_



- *N.B. A copy of the signatory’s ID document shall be enclosed to this sample request. (I.D. Card/ Driving license /Passport).*
- *N.B **each page** of this sample statement shall be accompanied by the **company’s stamp** and the **legal representative’s initials**.*

SAMPLE DECLARATION OF ENROLLMENT ON THE REGISTER OF COMPANIES

To:  
Agenzia per l'Italia Digitale (AGID)  
Via Listz, 21  
00144 – Roma  
Italy

SELF-EXECUTED AFFIDAVIT AND CERTIFICATION

(Presidential Decree no. 445, December 28, 2000)

Subject: RESEARCH AND DEVELOPMENT PROJECT (*PRE COMMERCIAL PROCUREMENT*) ON “Cloud for Europe” - Tender number: 5843932 – CUP: <C58I13000210006>

I, the undersigned \_\_\_\_\_  
*[surname and name]*

born in \_\_\_\_\_ (\_\_\_\_\_), on \_\_\_\_\_  
*[state] [city] [date]*

resident in \_\_\_\_\_ (\_\_\_\_\_),  
street \_\_\_\_\_, no. \_\_\_\_\_  
*[place] [city] [address]*

on behalf of the Tenderer “ \_\_\_\_\_ ”

with registered office in \_\_\_\_\_ (\_\_\_\_\_),  
street \_\_\_\_\_, no. \_\_\_\_\_  
*[state] [city] [address]*

in my capacity of:

*[please tick the appropriate box]*

- Owner or Legal representative, or
- under Special/General power of attorney

participating in the Call for tender in subject in my capacity of:

*[please tick the appropriate box]*

- individual Company (let. a), art. 34, Code of public contract);
- Company (let. a), art. 34, Code of public contract), specify type of Company:

\_\_\_\_\_ ;

- Consortium between Cooperatives (“Consorzio fra società cooperativa di produzione e lavoro”) (let. b), art. 34, Legislative Decree no.163/2006);
- Consortium between Craft businesses (“Consorzio tra imprese artigiane”) (let. b), art. 34, Legislative Decree no.163/2006);
- stable Consortium (let. c), art. 34, Legislative Decree no.163/2006);
- Lead company of Temporary grouping of Companies (let. d), art. 34, Legislative Decree no.163/2006):
  - incorporated
  - to be incorporated;
- Lead company of regular consortium (let. e), art. 34, Legislative Decree no.163/2006):
  - incorporated;
  - to be incorporated;
- Lead company of Business Networks (let. e-bis), art. 34, Legislative Decree no.163/2006
- E.E.I.G. (let. f), art. 34, Legislative Decree no.163/2006);
- Economic Operators established in a different E.U. Member States, according to the provision applicable in their relevant country (let. f-bis), art. 34, Legislative Decree no.163/2006)  
\_\_\_\_\_ ;

HEREBY DECLARE

Under my own personal responsibility, fully aware that in the case of fraudulent statements the penalties provided by law shall apply, pursuant to article 76 of Presidential Decree no. 445 28.12.2000:

1. That, with reference to Paragraph 9.1.2 of the Tender Regulation, this Company is registered from \_\_\_\_\_ on the Register of Companies of \_\_\_\_\_.

registration no. \_\_\_\_\_, that the activity performed is \_\_\_\_\_ [in case of Companies established in a State different from Italy, please provide equivalent data, according to the law of the country of establishment, pursuant to article 39, Code of public contract and further amendments) that the executive power is handled by a (please fill only the relevant field)]:

a) **Sole Director:** name \_\_\_\_\_ surname \_\_\_\_\_ born in \_\_\_\_\_, the \_\_\_\_\_, Tax Code/Fiscal Code \_\_\_\_\_, with residence in \_\_\_\_\_, appointed on \_\_\_\_\_ until \_\_\_\_\_ with the following powers associated with the office: \_\_\_\_\_;

b) **Board of Directors** consisting of no. \_\_\_\_\_ members and, in particular, of: [please give details of all members] name \_\_\_\_\_ surname \_\_\_\_\_ born in \_\_\_\_\_, the \_\_\_\_\_, Tax Code/Fiscal Code \_\_\_\_\_, with residence in \_\_\_\_\_, office \_\_\_\_\_ [Chairman of the Board of Directors, Chief Executive Officer, Director,...], appointed on \_\_\_\_\_ until \_\_\_\_\_ with the following powers associated with the office: \_\_\_\_\_;

c) that there are the following attorneys, in possession of particularly broad decision-making powers, referred to a plurality of subjects that, by summation, can be figured as homologues, or even more important than those powers assigned to the directors by the Bylaws:

[please give names and surnames, personal details, residence, powers and relative term of office]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**OR**

that there are no attorneys, in possession of particularly broad decision-making powers, referred to a plurality of subjects that, by summation, can be figured as homologues, or even more important than those powers assigned to the directors by the Bylaws;

d) that there are the following Technical Directors/Managers (i.e. persons that have been entrusted with the overall responsibility for operational and technical matters within the entity, whether or not these are also members of the Board of Directors or of an equivalent body with executive powers within the entity):

[please give names and surnames, personal details, residence, term of offices]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**OR**

that there are no Technical Directors/Managers;

- e) that in the year preceding the date of dispatch of this Call for tender, the following person ceased from their offices:

*[please give name and surname, office, and relative ceased date of office. For the purpose of this declaration, the relevant offices are: technical manager; owner in case of individual company; partner in case of "società in nome collettivo"(or national equivalent); partner in case of "società in accomandita semplice" (or national equivalent); executive manager with power to bound the company towards third parties, sole partner (natural person) or majority partner (natural person) in case of Company with less than four partners, in case of any other commercial company or consortium; attorneys, in possession of particularly broad decision-making powers, referred to a plurality of subjects that, by summation, can be figured as homologues, or even more important than those powers assigned to the directors by the Bylaws]:*

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**OR**

that in the year preceding the date of dispatch of this Call for tender, no person ceased from the offices referred to the Section 7 sub. 2 (b) and (c) of this Tender Regulation, nor attorneys, in possession of particularly broad decision-making powers, referred to a plurality of subjects that, by summation, can be figured as homologues, or even more important than those powers assigned to the directors by the Bylaws;

- f) that in the year preceding the date of dispatch of the Contract notice, the following corporate transaction occurred \_\_\_\_\_ (Company or Business unit sale/ rental, Company merge or incorporation) of \_\_\_\_\_ effective from \_\_\_\_\_ which involved the Tendering Company and the Company \_\_\_\_\_;

*[the tenderer gives the date and the effective date of the transaction occurred as well as the companies involved]*

that due to the aforementioned transaction, in the year preceding the date of dispatch of the Contract notice, the following persons of the selling/ leasing Company, merged or incorporated Companies shall be considered ceased from their offices:

*[the tenderer - with reference to the persons, which operated in the selling/ leasing Company, merged or incorporated Companies - gives names and corporate offices. For the purpose of this declaration, the relevant offices are: technical manager; owner in case of individual company; partner in case of "società in nome collettivo"(or national equivalent); partner in case of "società in accomandita semplice" (or national equivalent); executive manager with power to bound the company towards third parties, sole partner (natural person) or majority partner (natural person) in case of Company with less than four partners, in case of any other commercial company or consortium; attorneys, in possession of*

*particularly broad decision-making powers, referred to a plurality of subjects that, by summation, can be figured as homologues, or even more important than those powers assigned to the directors by the Bylaws]*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**OR**

in the year preceding the date of dispatch of the contract notice, no Company sale/ rental, nor merge or incorporation of Companies occurred;

2. that I have full knowledge of the tender documents, taking cognizance and accepting the rules governing the tendering procedure and, therefore, the awarding, and I undertake, in case of awarding, to observe it in its entirety, and that all goods and services offered are compliant with all the minimum requirements referred to in it;
3. that with reference to this Call for tender, I have not being practicing nor practiced agreements and/or concerted practices, which restrict competition and the market, prohibited by the applicable law, including articles 101 et sub. of TFEU (formerly articles 81 et sub. of EC Treaty) and articles 2 et sub. of Law no. 287/1990, and that the offer has been drawn up in full compliance with this legislation;
4. that with reference to this Call for tender, I have not submitted an offer in more than one grouping or consortium, or individually and as a member of a grouping or consortium.

AND FURTHERMORE STATE

5. That pursuant to and by effect of article 13, Law no. 196/2003, I am aware that personal data gathered will be handled using IT and other tools exclusively within the framework of the procedure for which this statement is being issued;
6. that I am aware that AGID reserves the right to undertake *ex officio* procedures to check - including on a sample basis - the accuracy of declarations.

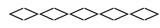
\_\_\_\_\_

*[place and date]*

Signature \_\_\_\_\_

*[stamp and legible signature]*

for the Company \_\_\_\_\_



- *N.B. A copy of the signatory's ID document shall be enclosed to this sample request. (I.D. Card/ Driving license /Passport).*
- *N.B **each page** of this sample statement shall be accompanied by the **company's stamp** and the **legal representative's initials**.*

**23 ANNEX C1 – DECLARATION CERTIFYING THE REQUIREMENTS UNDER SECTION 7 OF THIS TENDER REGULATION**

SAMPLE DECLARATION CERTIFYING THE REQUIREMENTS UNDER SECTION 7 OF THIS  
TENDER REGULATION

To:

Agenzia per l'Italia Digitale (AGID)  
Via Listz, 21  
00144 – Roma  
Italy

SELF-EXECUTED AFFIDAVIT AND CERTIFICATION

(Presidential Decree no. 445, December 28, 2000)

Subject: RESEARCH AND DEVELOPMENT PROJECT (*PRE COMMERCIAL PROCUREMENT*) ON “Cloud for Europe” - Tender number: 5843932 – CUP: <C58I13000210006>

I, the undersigned \_\_\_\_\_

*[surname and name]*

born in \_\_\_\_\_ (\_\_\_\_\_), on \_\_\_\_\_

*[state] [city] [date]*

resident in \_\_\_\_\_ (\_\_\_\_\_),

street \_\_\_\_\_, no. \_\_\_\_\_

*[place] [city] [address]*

on behalf of the Tenderer “\_\_\_\_\_”

with registered office in \_\_\_\_\_ (\_\_\_\_\_),



street \_\_\_\_\_, no. \_\_\_\_\_

[state] [city] [address]

in my capacity of:

[please tick the appropriate box]

- Owner or Legal representative, or
- under Special/General power of attorney

participating in the Call for tender in subject in my capacity of:

[please tick the appropriate box]

- individual Company (let. a), art. 34, Code of public contract);
- Company (let. a), art. 34, Code of public contract), specify type of Company:

\_\_\_\_\_  
\_\_\_\_\_;

- Consortium between Cooperatives (“Consorzio fra società cooperativa di produzione e lavoro”) (let. b), art. 34, Legislative Decree no.163/2006);
- Consortium between Craft businesses (“Consorzio tra imprese artigiane”) (let. b), art. 34, Legislative Decree no.163/2006);
- stable Consortium (let. c), art. 34, Legislative Decree no.163/2006);
- Lead company of Temporary grouping of Companies (let. d), art. 34, Legislative Decree no.163/2006):
  - incorporated
  - to be incorporated;
- Lead company of regular consortium (let. e), art. 34, Legislative Decree no.163/2006):
  - incorporated;
  - to be incorporated;
- Lead company of Business Networks (let. e-bis), art. 34, Legislative Decree no.163/2006
- E.E.I.G. (let. f), art. 34, Legislative Decree no.163/2006);
- Economic Operators established in a different E.U. Member States, according to the provision applicable in their relevant country (let. f-bis), art. 34, Legislative Decree no.163/2006)

\_\_\_\_\_;

HEREBY DECLARE

under my own personal responsibility, fully aware that in the case of fraudulent statements the penalties provided by law shall apply, pursuant to article 76 of Presidential Decree no. 445 28.12.2000, with reference to Paragraph 9.1.3 of the Tender Regulation, the absence of causes of exclusion under Section 7 of this Tender Regulation, and namely:

1. not to be bankrupt, in compulsory liquidation, in receivership, nor in composition with creditors, and that in its regards is running no procedure that can declare such situations or is in any analogous situation arising from a similar procedure under national laws and regulations;

*[or, in case of composition with creditors enabling the continuity of business]*

that has already deposited the due written procedure to access the composition with creditors enabling the continuity of business according to similar procedures under national laws and regulations, and that it has been authorized to participate in procedures involving the award of public service contracts by the Court of \_\_\_\_\_

*[please fill with the references: authorization no., date, etc.]:* for such reason, declares not to participate in this tender as lead company of a grouping of companies;

*[or]*

that it is already in a running composition with creditors enabling the continuity of business according to similar procedures under national laws and regulations, and that it has been authorized to participate in procedures involving the award of public service contracts by the Court of \_\_\_\_\_

*[please fill with the references: authorization no., date, etc.]:* for such reason, declares not to participate in this tender as a lead company of a grouping of companies;

2. that no proceedings are pending for the applications of any personal preventive measures, applied by the court, for the protection of public safety, such as special supervision, prohibition of residence or a compulsory residence, in pursuit of the fight against organised crime, accordance with Council Framework Decision 2008/841/GAI;
3. that no conviction by a final court judgment, nor a penalty order became irrevocable and neither a judgment for application of plea-bargaining, were issued against the declarant for serious crimes perpetrated against any Contracting Authority or any U.E. Member State Public Administration concerning the professional conduct of the declarant;

***[or as an alternative, if there are convictions]***

that the conviction by a final court judgment, the penalty order became irrevocable and the judgment for application of plea-bargaining, were not issued for serious crimes perpetrated against any Contracting Authority or any U.E. Member State Public Administration concerning the professional conduct of the declarant;

***[in case of convictions please to be filled with the references: Court., no., date., etc.]***

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**Warnings:**

As set forth in Section 7 of this Tender Regulation it is always cause of exclusion the final court judgement conviction, for one or more offences of criminal association, bribery, fraud or money laundering.

Both prohibition and the consequent cause of exclusion operates if the final court judgement, or the penalty order, concerns:

- the owner or the technical director; in the case of sole trader,
- a partner or a technical director; in case of general partnership,
- a general partner or the technical director; in case of limited partnership,
- the directors with powers of representation, the technical director, the natural person sole shareholder, or the majority partner in companies with less than four partners; in the case of any other type of company or consortium;

If the declarant doesn't give proof of complete and effective decoupling from the punished behaviour, both the prohibition and the consequent cause of exclusion operates for the above mentioned subjects, even if they have ceased to hold office in the year prior to the publication of the present tender.

The prohibition and the consequent cause of exclusion do not operates for decriminalized offences, when the convicted has been legally rehabilitated, when after the conviction the offence is extinguished, nor when the conviction sentence was revoked.

4. that it has not infringed the prohibition of trust ownership (for a reference of which see Hauge Conference, *Convention on the law applicable to trust and on their recognition*, 1 July 1985, and its national transpositions and subsequent modifications and integrations) or, otherwise, that has expired at least one year from the last definitely confirmed infringement and that this one last was removed;
5. not to have committed serious violations – duly verified by any means of proof by the Contracting Authorities – against the rules regarding safety and any other obligations arising from labour relationships, according to the International Labour Organization's standards;
6. has fulfilled obligations relating to the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country of the Contracting Authority;
7. has fulfilled obligations relating to the payment of social security contributions in accordance with the legal provisions of the country in which he is established or with those of the country of the Contracting Authorities;
8. that against the declarant was applied no restrictive penalty that involves the prohibition to contract with the Public Administrations, except for the provision of a public service; and that no employee, which in the three years previous the declaration had exercised authoritative or negotiation powers on behalf of the Public Administration, is currently under a working nor a professional relationship with the declarant;
9. that:
  - no control situation under art. 2359 of the Italian Civil Code [*see box below*] is in place with other economic operators and that the offer was formulated autonomously;
  - [or]
  - the tenderer is unaware of the participation to the same procedure by other economic operators experiencing, in its regard, one of the control situations under art. 2359 of the Italian Civil Code [*see box below*] and that the offer was formulated autonomously;

[or]

- the tenderer is informed about the participation to the same procedure by others economic operators experiencing, in its regard, one of the control situations under art. 2359 of the Italian Civil Code [see box below] and that the offer was formulated autonomously;

**Warning:**

under art. 2359 of the Italian Civil Code, are considered as controlled companies:

1. companies in which another company holds the majority of votes that can be exercised in the ordinary shareholders' meeting;
2. companies in which another company has sufficient votes to exercise a dominant influence in the ordinary shareholders' meeting;
3. companies that are under the dominant influence of another company by virtue of particular contractual obligations with it.

The votes belonging to controlled companies, to trust companies and to intermediaries are calculated in the application of points 1. and 2.; while the votes on behalf of third parties are not calculated.

Considered as affiliated companies are those on which another company exercises a notable influence. Such influence is presumed when at least one fifth of the votes can be exercised in the ordinary shareholders' meeting, or one tenth if the company's shares are listed on regulated markets.

10. that the tenderer has read and accepted all the terms of the present notice as of all the attached and complementary documentation;
11. that the tenderer undertakes, in case of award of the tender, to comply with the submitted project activities, according to terms and conditions under the Framework Agreement and under its following Executive deeds.;
12. that the tenderer is technically and professionally eligible for the activities for which it submits,

**AND FURTHERMORE STATE**

- A. *[in case of Temporary grouping of Companies not incorporated]* that participation in the call for tender will be undertaken jointly by way of Temporary grouping of Companies **with the following entities:**

Company: \_\_\_\_\_ lead grouped company, which will perform the following part/portion of the service \_\_\_\_\_;

Company: \_\_\_\_\_ grouped company, which will perform the following part/portion of the service \_\_\_\_\_;

Company: \_\_\_\_\_ grouped company, which will perform the following part/portion of the service \_\_\_\_\_;

and to undertake, in case of awarding, to establish such grouping in compliance with provisions under article 37 of Code of public contract and further amendments;

- B. *[in case of Temporary grouping of Companies already incorporated]* that participation will be undertaken by way of Temporary grouping of Companies composed of the following

entities:

*Company:* \_\_\_\_\_ lead grouped company, which will perform the following part/portion of the service \_\_\_\_\_;

*Company:* \_\_\_\_\_ grouped company, which will perform the following part/portion of the service \_\_\_\_\_;

*Company:* \_\_\_\_\_ grouped company, which will perform the following part/portion of the service \_\_\_\_\_;

- C. *[in case of Consortia under article 34 sub-section 1, let. b) and c) of Code of public contract], that the consortium companies on behalf of which the Consortium is applying are as follows:*

\_\_\_\_\_  
\_\_\_\_\_

with specification of the parts of the service that each of them will perform, as follows:

\_\_\_\_\_  
\_\_\_\_\_

- D. *[in case of Consortia under article 34 sub-section 1, let. e) of Code of public contract] that the consortium companies on behalf of which the Consortium is applying are the following:*

\_\_\_\_\_  
\_\_\_\_\_

with specification of the parts of the service that each of them will perform, as follows:

\_\_\_\_\_  
\_\_\_\_\_

- E. *[in case of tenderers participating by way of European Economic Interest Grouping] that the companies on behalf of which the E.E.I.G. is applying are the following:*

\_\_\_\_\_  
\_\_\_\_\_

with specification of the parts of the service that each of them will perform, as follows:

\_\_\_\_\_  
\_\_\_\_\_

- F. *[in case of tenderers participating by way of Business Network*

*Contracts]* that the companies on behalf of which the Business Network Contracts is applying are the following:

\_\_\_\_\_  
\_\_\_\_\_

with specification of the parts of the service that each of them will perform, as follows:

\_\_\_\_\_  
\_\_\_\_\_

and that, with reference to this Tender, the latter will not take part in the procedure in any other form.

AND FINALLY STATE

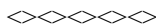
1. That pursuant to and by effect of article 13, Law no. 196/2003, I am aware that personal data gathered will be handled using IT and other tools exclusively within the framework of the procedure for which this statement is being issued;
2. that I am aware that AGID reserves the right to undertake *ex officio* procedures to check - including on a sample basis - the accuracy of declarations.

\_\_\_\_\_, \_\_\_\_\_  
*[place and date]*

Signature \_\_\_\_\_

*[stamp and legible signature]*

for the Company \_\_\_\_\_



- *N.B. A copy of the signatory's ID document shall be enclosed to this sample request. (I.D. Card/ Driving license /Passport).*
- *N.B **each page** of this sample statement shall be accompanied by the **company's stamp** and the **legal representative's initials**.*

**24 ANNEX C.2 – DECLARATION CERTIFYING THE REQUIREMENTS UNDER SECTION 7 OF THIS TENDER REGULATION (CRIMINAL PROCEEDINGS)**

SAMPLE DECLARATION CERTIFYING THE REQUIREMENTS UNDER SECTION 7 OF THIS TENDER REGULATION, IN CASE OF OTHER COMPANIES CONSISTENT IN JUST TWO PARTNERS (EACH WITH HALF OF THE SHARES)

To:

Agenzia per l'Italia Digitale (AGID)  
Via Listz, 21  
00144 – Roma  
Italy

Sample declaration to be submitted by:

- the Company owner and the technical managers, in case of individual company;
- each partner and the technical managers, in case of "società in nome collettivo" (or national equivalent);
- partners and the technical managers, in case of "società in accomandita semplice" (or national equivalent);
- executive manager with power to bound the company towards third parties and the technical managers, or the sole partner (natural person), or majority partner (natural person) in case of Company with less than four partners, in any other cases;
- persons ceased from their offices in the year preceding the date of dispatch of the Contract Notice (for the sole declaration under point 3), including executive manager and technical directors who have worked in any company incorporated or merged during the last year or which have ceased from their respective offices during the same period.

SELF-EXECUTED AFFIDAVIT AND CERTIFICATION

(Presidential Decree no. 445, December 28, 2000)

Subject: RESEARCH AND DEVELOPMENT PROJECT (*PRE COMMERCIAL PROCUREMENT*) ON "Cloud for Europe" - Tender number: 5843932 – CUP: <C58I13000210006>

I, the undersigned \_\_\_\_\_

*[surname and name]*

born in \_\_\_\_\_ (\_\_\_\_\_), on \_\_\_\_\_  
*[state] [city] [date]*

resident in \_\_\_\_\_ (\_\_\_\_\_),

street \_\_\_\_\_, no. \_\_\_\_\_  
*[place] [city] [address]*

on behalf of the Tenderer “ \_\_\_\_\_ ”

with registered office in \_\_\_\_\_ (\_\_\_\_\_),

street \_\_\_\_\_, no. \_\_\_\_\_  
*[state] [city] [address]*

in my capacity of:

*[please tick the appropriate box]*

- owner or Legal representative, or
- under Special/General power of attorney

participating in the Call for tender in subject in my capacity of:

*[please tick the appropriate box]*

- individual Company (let. a), art. 34, Code of public contract);
- Company (let. a), art. 34, Code of public contract), specify type of Company:

\_\_\_\_\_;

- Consortium between Cooperatives (“Consorzio fra società cooperativa di produzione e lavoro”) (let. b), art. 34, Legislative Decree no.163/2006);
- Consortium between Craft businesses (“Consorzio tra imprese artigiane”) (let. b), art. 34, Legislative Decree no.163/2006);
- stable Consortium (let. c), art. 34, Legislative Decree no.163/2006);
- Lead company of Temporary grouping of Companies (let. d), art. 34, Legislative Decree no.163/2006):
  - incorporated
  - to be incorporated;



- Lead company of regular consortium (let. e), art. 34, Legislative Decree no.163/2006):
  - incorporated;
  - to be incorporated;
- Lead company of Business Networks (let. e-bis), art. 34, Legislative Decree no.163/2006
- E.E.I.G. (let. f), art. 34, Legislative Decree no.163/2006);
- Economic Operators established in a different E.U. Member States, according to the provision applicable in their relevant country (let. f-bis), art. 34, Legislative Decree no.163/2006)\_\_\_\_\_;

HEREBY DECLARE

Under my own personal responsibility, fully aware that in the case of fraudulent statements the penalties provided by law shall apply, pursuant to article 76 of Presidential Decree no. 445 28.12.2000:

1. that no proceedings are pending for the applications of any personal preventive measures, applied by the court, for the protection of public safety, such as special supervision, prohibition of residence or a compulsory residence, in pursuit of the fight against organised crime, accordance with Council Framework Decision 2008/841/GAI;
2. that no conviction by a final court judgment, nor a penalty order became irrevocable and neither a judgment for application of plea-bargaining, were issued against the declarant for serious crimes perpetrated against any Contracting Authority or any U.E. Member State Public Administration concerning the professional conduct of the declarant;

***[or as an alternative, if there are convictions]***

that the conviction by a final court judgment, the penalty order became irrevocable and the judgment for application of plea-bargaining, were not issued for serious crimes perpetrated against any Contracting Authority or any U.E. Member State Public Administration concerning the professional conduct of the declarant,;

***[in case of convictions please to be filled with the references: Court., no., date., etc.]***

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**Warnings:**

As set forth in Section 7 of this Tender Regulation it is always cause of exclusion the final court judgement conviction, for one or more offences of criminal association, bribery, fraud or money laundering.

Both prohibition and the consequent cause of exclusion operates if the final court judgement, or the penalty order, concerns:

- the owner or the technical director; in the case of sole trader,
- a partner or a technical director; in case of general partnership,
- a general partner or the technical director; in case of limited partnership,
- the directors with powers of representation, the technical director, the natural person sole shareholder, or the majority partner in companies with less than four partners; in the case of any other type of

company or consortium;

If the declarant doesn't give proof of complete and effective decoupling from the punished behaviour, both the prohibition and the consequent cause of exclusion operates for the above mentioned subjects, even if they have ceased to hold office in the year prior to the publication of the present tender.

The prohibition and the consequent cause of exclusion do not operate for decriminalized offences, when the convicted has been legally rehabilitated, when after the conviction the offence is extinguished, nor when the conviction sentence was revoked.

AND FURTHERMORE STATE

1. That pursuant to and by effect of article 13, Law no. 196/2003, I am aware that personal data gathered will be handled using IT and other tools exclusively within the framework of the procedure for which this statement is being issued;
2. that I am aware that AGID reserves the right to undertake *ex officio* procedures to check - including on a sample basis - the accuracy of declarations.

\_\_\_\_\_, \_\_\_\_\_  
[place and date]

Signature \_\_\_\_\_

[stamp and legible signature]

for the Company \_\_\_\_\_

◇◇◇◇◇

• N.B. A copy of the signatory's ID document shall be enclosed to this sample request. (I.D. Card/ Driving license /Passport).

**25 ANNEX D – DECLARATION FOR ECONOMIC AND FINANCIAL CAPACITY REQUIREMENTS”**

SAMPLE DECLARATION FOR ECONOMIC AND FINANCIAL CAPACITY REQUIREMENTS

To:

Agenzia per l'Italia Digitale (AGID)  
Via Listz, 21  
00144 – Roma  
Italy

SELF-EXECUTED AFFIDAVIT AND CERTIFICATION

(Presidential Decree no. 445, December 28, 2000)

Subject: RESEARCH AND DEVELOPMENT PROJECT (*PRE COMMERCIAL PROCUREMENT*) ON “Cloud for Europe” - Tender number: 5843932 – CUP: <C58I13000210006>

I, the undersigned \_\_\_\_\_

*[surname and name]*

born in \_\_\_\_\_ (\_\_\_\_\_), on \_\_\_\_\_

*[state] [city] [date]*

resident in \_\_\_\_\_ (\_\_\_\_\_),

street \_\_\_\_\_, no. \_\_\_\_\_

*[place] [city] [address]*

on behalf of the Tenderer “ \_\_\_\_\_ ”

with registered office in \_\_\_\_\_ (\_\_\_\_\_),

street \_\_\_\_\_, no. \_\_\_\_\_

[state] [city] [address]

in my capacity of:

[please tick the appropriate box]

- Owner or Legal representative, or
- under Special/General power of attorney

participating in the Call for tender in subject in my capacity of:

[please tick the appropriate box]

- individual Company (let. a), art. 34, Code of public contract);
- Company (let. a), art. 34, Code of public contract), specify type of Company:

\_\_\_\_\_

\_\_\_\_\_;

- Consortium between Cooperatives (“Consortio fra società cooperativa di produzione e lavoro”) (let. b), art. 34, Legislative Decree no.163/2006);
- Consortium between Craft businesses (“Consortio tra imprese artigiane”) (let. b), art. 34, Legislative Decree no.163/2006);
- stable Consortium (let. c), art. 34, Legislative Decree no.163/2006);
- Lead company of Temporary grouping of Companies (let. d), art. 34, Legislative Decree no.163/2006):
  - incorporated
  - to be incorporated;
- Lead company of regular consortium (let. e), art. 34, Legislative Decree no.163/2006):
  - incorporated;
  - to be incorporated;
- Lead company of Business Networks (let. e-bis), art. 34, Legislative Decree no.163/2006
- E.E.I.G. (let. f), art. 34, Legislative Decree no.163/2006);
- Economic Operators established in a different E.U. Member States, according to the provision applicable in their relevant country (let. f-bis), art. 34, Legislative Decree no.163/2006)\_\_\_\_\_;

HEREBY DECLARE

Under my own personal responsibility, fully aware that in the case of fraudulent statements the penalties provided by law shall apply, pursuant to article 76 of Presidential Decree no. 445 28.12.2000:

- declares to have had a stable financial situation in the last 12 months before the publishing of the present tender
- in the same period, not to have unjustified, prolonged delays in payments of creditors;
- declares to be aware of the fact that, in case of awarding of the Contract related to the present tender, he/she shall produce suitable certifications released by banking institution or authorized intermediary, according to the provisions in Section 16 of this Tender Regulation.

1. \_\_\_\_\_ [Annex 1 to this declaration]

[Institution name]

2. \_\_\_\_\_ [Annex 2 to this declaration]

[Institution name]

AND FURTHERMORE STATE

3. That pursuant to and by effect of article 13, Law no. 196/2003, I am aware that personal data gathered will be handled using IT and other tools exclusively within the framework of the procedure for which this statement is being issued;
4. that I am aware that AGID reserves the right to undertake *ex officio* procedures to check - including on a sample basis - the accuracy of declarations.

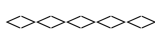
\_\_\_\_\_, \_\_\_\_\_

[place and date]

Signature \_\_\_\_\_

[stamp and legible signature]

for the Company \_\_\_\_\_



• N.B. A copy of the signatory's ID document shall be enclosed to this sample

request. (I.D. Card/ Driving license /Passport).

- N.B **each page** of this sample statement shall be accompanied by the **company's stamp** and the **legal representative's initials**.

~~Annex 1: Institution declaration no. 1~~

~~Annex 2: Institution declaration no. 2~~

## 26 ANNEX E – DECLARATION FOR TECHNICAL CAPACITY REQUIREMENTS

### SAMPLE DECLARATION FOR TECHNICAL CAPACITY REQUIREMENTS

To:

Agenzia per l'Italia Digitale (AGID)

Via Listz, 21

00144 – Roma

Italy

#### SELF-EXECUTED AFFIDAVIT AND CERTIFICATION

(Presidential Decree no. 445, December 28, 2000)

Subject: RESEARCH AND DEVELOPMENT PROJECT (*PRE COMMERCIAL PROCUREMENT*) ON “Cloud for Europe” - Tender number: 5843932 – CUP: <C58I13000210006>

I, the undersigned \_\_\_\_\_

*[surname and name]*

born in \_\_\_\_\_ (\_\_\_\_\_), on \_\_\_\_\_

*[state] [city] [date]*

resident in \_\_\_\_\_ (\_\_\_\_\_),

street \_\_\_\_\_, no. \_\_\_\_\_

*[place] [city] [address]*

on behalf of the Tenderer “ \_\_\_\_\_ ”

with registered office in \_\_\_\_\_ (\_\_\_\_\_),

street \_\_\_\_\_, no. \_\_\_\_\_

*[state] [city] [address]*

in my capacity of:

*[please tick the appropriate box]*

- Owner or Legal representative, or
- under Special/General power of attorney

participating in the Call for tender in subject in my capacity of:

*[please tick the appropriate box]*

- individual Company (let. a), art. 34, Code of public contract);
- Company (let. a), art. 34, Code of public contract), specify type of Company:

\_\_\_\_\_ ;

- Consortium between Cooperatives (“Consorzio fra società cooperativa di produzione e lavoro”) (let. b), art. 34, Legislative Decree no.163/2006);
- Consortium between Craft businesses (“Consorzio tra imprese artigiane”) (let. b), art. 34, Legislative Decree no.163/2006);
- stable Consortium (let. c), art. 34, Legislative Decree no.163/2006);
- Lead company of Temporary grouping of Companies (let. d), art. 34, Legislative Decree no.163/2006):
  - incorporated
  - to be incorporated;
- Lead company of regular consortium (let. e), art. 34, Legislative Decree no.163/2006):
  - incorporated;
  - to be incorporated;
- Lead company of Business Networks (let. e-bis), art. 34, Legislative Decree no.163/2006
- E.E.I.G. (let. f), art. 34, Legislative Decree no.163/2006);
- Economic Operators established in E.U. Member States different from Italy, according to the provision applicable in their relevant country (let. f-bis), art. 34, Legislative Decree no.163/2006)

\_\_\_\_\_ ;

HEREBY DECLARE

Under my own personal responsibility, fully aware that in the case of fraudulent statements the penalties provided by law shall apply, pursuant to article 76 of Presidential Decree no. 445 28.12.2000:

- to possess the technical capacity requirements requested by the Tender Regulation, under Paragraph 9.1.5.



For this purpose, I declare;

- that I have realized, in the three years prior to the date of dispatch of the notice regarding <Research & Development project (Pre-Commercial Procurement) regarding “Cloud for Europe” (), one or more projects the content of which falls within the area of competence identified in the “Technical Specification”, annex no. 4 to such notice, for an amount of no less that € 50.000,00 (fifty thousand/00), net of tax obligation, indicating for each individual project the total amount, date undertaken (month and year), and a description of the subject. The following scheme may be used for this purpose:

<p><b>Projects realized the content of which falls within the area of competence identified by the “Technical Specification” document.</b></p> <p><b>Description of the subject matter.</b></p>	<p><b>Month and Year it was carried out</b></p>	<p><b>Total VALUE</b></p>

AND FURTHERMORE STATE

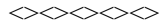
1. That pursuant to and by effect of article 13, Law no. 196/2003, I am aware that personal data gathered will be handled using IT and other tools exclusively within the framework of the procedure for which this statement is being issued;
2. that I am aware that AGID reserves the right to undertake *ex officio* procedures to check - including on a sample basis - the accuracy of declarations.

\_\_\_\_\_, \_\_\_\_\_  
 [place and date]

Signature \_\_\_\_\_

*[stamp and legible signature]*

for the Company \_\_\_\_\_



- *N.B. A copy of the signatory's ID document shall be enclosed to this sample request. (I.D. Card/ Driving license /Passport).*
- *N.B **each page** of this sample statement shall be accompanied by the **company's stamp** and the **legal representative's initials**.*

## 27 ANNEX F – DECLARATION OF SUBCONTRACTING

### SAMPLE DECLARATION OF SUBCONTRACTING

To:

Agenzia per l'Italia Digitale (AGID)  
Via Listz, 21  
00144 – Roma  
Italy

(TO BE ENCLOSED IN ENVELOPE NO. 3 "FINANCIAL OFFER")

- In case of Temporary Grouping of Companies/Consortia/E.E.I.G./Business Networks Contracts not incorporated yet, the Legal representative of each grouped company shall sign this declaration.
- In case of Temporary Grouping of Companies/Consortia/E.E.I.G./Business Networks Contracts already incorporated, such single declaration shall be signed only by the Legal representative of the Lead grouped company, or by a person acting under special/general power of attorney, in its own name and on behalf of the other grouped company.

#### SELF-EXECUTED AFFIDAVIT AND CERTIFICATION

(Presidential Decree no. 445, December 28, 2000)

Subject: RESEARCH AND DEVELOPMENT PROJECT (*PRE COMMERCIAL PROCUREMENT*) ON "Cloud for Europe" - Tender number: 5843932 – CUP: <C58I13000210006>

I, the undersigned \_\_\_\_\_

*[surname and name]*

born in \_\_\_\_\_ (\_\_\_\_\_), on \_\_\_\_\_

*[state] [city] [date]*

resident in \_\_\_\_\_ (\_\_\_\_\_),

street \_\_\_\_\_, no. \_\_\_\_\_

*[place] [city] [address]*

on behalf of the Tenderer “ \_\_\_\_\_ ”

with registered office in \_\_\_\_\_ (\_\_\_\_\_),

street \_\_\_\_\_, no. \_\_\_\_\_

*[state] [city] [address]*

in my capacity of:

*[please tick the appropriate box]*

- owner or Legal representative, or
- under Special/General power of attorney

participating in the Call for tender in subject in my capacity of:

*[please tick the appropriate box]*

- individual Company (let. a), art. 34, Code of public contract);
- Company (let. a), art. 34, Code of public contract), specify type of Company:

\_\_\_\_\_;

- Consortium between Cooperatives (“Consorzio fra società cooperativa di produzione e lavoro”) (let. b), art. 34, Legislative Decree no.163/2006);
- Consortium between Craft businesses (“Consorzio tra imprese artigiane”) (let. b), art. 34, Legislative Decree no.163/2006);
- stable Consortium (let. c), art. 34, Legislative Decree no.163/2006);
- Lead company of Temporary grouping of Companies (let. d), art. 34, Legislative Decree no.163/2006):
  - incorporated
  - to be incorporated;
- Lead company of regular consortium (let. e), art. 34, Legislative Decree no.163/2006):
  - incorporated;
  - to be incorporated;
- Lead company of Business Networks (let. e-bis), art. 34, Legislative Decree no.163/2006

- E.E.I.G. (let. f), art. 34, Legislative Decree no.163/2006);
- Economic Operators established in a different E.U. Member States, according to the provision applicable in their relevant country (let. f-bis), art. 34, Legislative Decree no.163/2006)  
\_\_\_\_\_;

HEREBY DECLARE

Under my own personal responsibility, fully aware that in the case of fraudulent statements the penalties provided by law shall apply, pursuant to article 76 of Presidential Decree no. 445 28.12.2000:

1. that the Company, in case of awarding, will not subcontract any of the activities covered by this Tender;

*[or]*

That the Company, in case of awarding, intends to subcontract, within the limits provided by article 118 of Code of public contract and further amendments, the following activities:

\_\_\_\_\_

\_\_\_\_\_

to economic operators which are in possession of the relevant requirements, and to whom prohibition under article 10 of Law no. 575/65 and subsequent amendments do not apply, pursuant to the specific conditions provided by the Tender Regulation, the Framework Agreement draft, and by article 118 of Code of public contract.

In case of Temporary grouping of Companies/Consortium, E.E.G.I./Business Network Contracts incorporated and/or to be incorporated:

2. that the Temporary grouping of Companies/Consortium/E.E.G.I./Business Network Contracts, as a whole, will not subcontract any of the activities covered by this Tender;

*[or]*

that the Temporary grouping of Companies/Consortium/E.E.G.I./Business Network Contracts, as a whole, in case of awarding, intends to subcontract, within the limits provided by article 118 of Code of public contract and further amendments, the following activities:

\_\_\_\_\_

\_\_\_\_\_

to economic operators which are in possession of the relevant requirements, and to whom the prohibitions under article 10 of Law no. 575/65 and subsequent amendments do not apply, pursuant to the specific conditions provided by the Tender Regulation, the Framework Agreement draft, and by article 118 of Code of public contract.

AND FURTHERMORE STATE

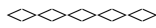
3. That pursuant to and by effect of article 13, Law no. 196/2003, I am aware that personal data gathered will be handled using IT and other tools exclusively within the framework of the procedure for which this statement is being issued;
4. that I am aware that AGID reserves the right to undertake *ex officio* procedures to check - including on a sample basis - the accuracy of declarations.

\_\_\_\_\_, \_\_\_\_\_  
[place and date]

Signature \_\_\_\_\_

[stamp and legible signature]

for the Company \_\_\_\_\_



- *N.B. A copy of the signatory's ID document shall be enclosed to this sample request. (I.D. Card/ Driving license /Passport).*
- *N.B **each page** of this sample statement shall be accompanied by the **company's stamp** and the **legal representative's initials**.*

## 28 ANNEX G – TEMPLATE OF FINANCIAL OFFER (LOT 1)

The envelope no. 3 <REALIZATION OF A PRE-COMMERCIAL PROCUREMENT R&D PROJECT FOR “Cloud for Europe – lot no. 1” CIG: <6027774476> – CUP: <C58I13000210006> shall contain, under penalty of exclusion, a Declaration of offer drawn up as follows.

To:  
Agenzia per l’Italia Digitale (AGID)  
Via Listz, 21  
00144 – Roma  
Italy

### DECLARATION OF OFFER

Subject: RESEARCH AND DEVELOPMENT PROJECT (PRE COMMERCIAL PROCUREMENT) ON “Cloud for Europe” - CIG: <6027774476> – CUP: <C58I13000210006>

I, the undersigned \_\_\_\_\_  
*[surname and name]*

born in \_\_\_\_\_ (\_\_\_\_\_), on \_\_\_\_\_  
*[state] [city] [date]*

resident in \_\_\_\_\_ (\_\_\_\_\_),  
street \_\_\_\_\_, no. \_\_\_\_\_  
*[place] [city] [address]*

on behalf of the Tenderer “ \_\_\_\_\_ ”

with registered office in \_\_\_\_\_ (\_\_\_\_\_),  
street \_\_\_\_\_, no. \_\_\_\_\_  
*[state] [city] [address]*

in my capacity of:

*[please tick the appropriate box]*

- owner or Legal representative, or
- under Special/General power of attorney

participating in the Call for tender in subject in my capacity of:

*[please tick the appropriate box]*

- individual Company (let. a), art. 34, Code of public contract);
- Company (let. a), art. 34, Code of public contract), specify type of Company:

\_\_\_\_\_ ;

- Consortium between Cooperatives (“Consorzio fra società cooperativa di produzione e lavoro”) (let. b), art. 34, Legislative Decree no.163/2006);
- Consortium between Craft businesses (“Consorzio tra imprese artigiane”) (let. b), art. 34, Legislative Decree no.163/2006);
- stable Consortium (let. c), art. 34, Legislative Decree no.163/2006);
- Lead company of Temporary grouping of Companies (let. d), art. 34, Legislative Decree no.163/2006):
  - incorporated
  - to be incorporated;
- Lead company of regular consortium (let. e), art. 34, Legislative Decree no.163/2006):
  - incorporated;
  - to be incorporated;
- Lead company of Business Networks (let. e-bis), art. 34, Legislative Decree no.163/2006
- E.E.I.G. (let. f), art. 34, Legislative Decree no.163/2006);
- Economic Operators established in a different E.U. Member States, according to the provision applicable in their relevant country (let. f-bis), art. 34, Legislative Decree no.163/2006)  
\_\_\_\_\_ ;

HEREBY UNDERTAKE

- To fulfil all the obligation provided by the Framework Agreement draft, in the Contract Notice for the Realization of a Research and Development Project (PRE COMMERCIAL PROCUREMENT) on “Cloud for Europe – lot no. 1” - CIG: <6027774476> – CUP: <C58I13000210006>, in the



Tender Regulation, in the document “Technical Specifications”, in the “Request for participation” and in the enclosed declarations in the document attached or complementary to the aforementioned documents, and in all the other deeds related to the “Realization of a Research and Development Project (Pre-Commercial Procurement) on “Cloud for Europe – lot no. 1” CIG: <6027774476> – CUP: <C58I13000210006> by issuing the following financial offer. The overall total amount (in Euro) identified for completing “Phase one”, related to the Solution design, under penalty of exclusion, shall be indicated, in numbers and letters:

• Amount in Euro, in numbers and letters: \_\_\_\_\_

*[numbers]*

\_\_\_\_\_

*[letters]*

- **Increased offers compared to the maximum amount will not be accepted** [which, for Phase one, is equal to € 40.000,00 (forty thousand/00), V.A.T. excluded], for lot 1, partial or conditioned.
- The calculation for the assignment of all scores will take into account the first two decimal.
- The Estimated Full Price is the price that it would have been quoted if Intellectual Property Rights resulting from the execution of Phase I were fully retained by the Procuring Entity. The estimated Full Price shall be indicated in numbers and letters:

• Amount in Euro, in numbers and letters: \_\_\_\_\_

*[numbers]*

\_\_\_\_\_

*[letters]*

The breakdown into cost categories and unit prices for each cost category contains:

- the list of R&D resource categories (e.g. junior, senior researchers, developers, testers, etc.) that the tenderer plan to use for the execution of the services in Phase I.
- the unit price for each resource category;
- for each resource category, the minimum guaranteed quantity of resources for the execution of the

of the services in Phase I.

The list includes only the resource categories that are inseparable from and indispensable to deliver the R&D services that are executed through the present contract.

Description of the resource category	Description of the unit (hour, day/person, number of...)	Unit price (in numbers, Euro)	Minimum guaranteed quantity of resources for the execution of the services in Phase I

The following list contain resources for Phases II and III that are not expected to be used in Phase I.

Description of the resource category (to be used in Phase II or III)	Description of the unit (hour, day/person, quantity...)	Unit price (in numbers, Euro)

- There are no security charges deriving from interferential risks, pursuant to article 26 of Legislative Decree no. 81/2008.
- The undersigned, in addition, by accepting all terms and conditions specified in the Tender documents, furthermore state:

- that the offer is irrevocable and binding until the 180° (one hundred eightieth) day after the deadline scheduled for the submission of offers;
- that such offer shall not bind in any way AGID;
- to have full knowledge of all the general and special circumstances which can affect the performance of all the services covered by this Tender and that such circumstances have been taken into account in determining the demanded amount, which is considered remunerative;
- to apply the same conditions for any additional integrative activities that AGID may request, within the limits provided for Public Administration;
- to acknowledge that the deadlines set out in the entire tender documentation referred to the time of performance of the services covered by the tender shall be considered, to all effects, essential terms pursuant to article 1457 of the Italian Civil code;
- that the “Technical Specification” document, as well as the other Tender documents, will form integral and substantial part of the Contract to be stipulated with AGID.

\_\_\_\_\_, \_\_\_\_\_  
*[place and date]*

Signature \_\_\_\_\_

*[stamp and legible signature]*

for the Company \_\_\_\_\_



- *N.B. In case of Tenderers participating by way of Temporary Grouping of Companies/Consortia/E.E.I.G./Business Network Contracts, not incorporated yet, pursuant to article 37, sub-section 8, Code of public contract, for the purpose of signing in solido the offer, on behalf of the Tenderers grouped companies.*

Signature \_\_\_\_\_

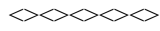
*[stamp and legible signature]*

for the Company \_\_\_\_\_

Signature \_\_\_\_\_

*[stamp and legible signature]*

for the Company \_\_\_\_\_



*N.B. A copy of the signatory's ID document shall be enclosed to this sample request. (I.D. Card/ Driving license /Passport).*

*N.B. **each page** of this sample statement shall be accompanied by the **company's stamp** and the **legal representative's initials**.*

## 29 ANNEX H – TEMPLATE OF FINANCIAL OFFER (LOT 2)

The envelope no. 3 <REALIZATION OF A PRE-COMMERCIAL PROCUREMENT R&D PROJECT FOR “Cloud for Europe – lot no. 2” CIG: <6027802B8F> – CUP: <C58I13000210006> shall contain, under penalty of exclusion, a Declaration of offer drawn up as follows.

To:

Agenzia per l’Italia Digitale (AGID)  
Via Listz, 21  
00144 – Roma  
Italy

### DECLARATION OF OFFER

Subject: RESEARCH AND DEVELOPMENT PROJECT (PRE COMMERCIAL PROCUREMENT) ON “Cloud for Europe” - CIG: <6027802B8F > – CUP: <C58I13000210006>

I, the undersigned \_\_\_\_\_

*[surname and name]*

born in \_\_\_\_\_ (\_\_\_\_\_), on \_\_\_\_\_

*[state] [city] [date]*

resident in \_\_\_\_\_ (\_\_\_\_\_),

street \_\_\_\_\_, no. \_\_\_\_\_

*[place] [city] [address]*

on behalf of the Tenderer “ \_\_\_\_\_ ”

with registered office in \_\_\_\_\_ (\_\_\_\_\_),

street \_\_\_\_\_, no. \_\_\_\_\_

*[state] [city] [address]*

in my capacity of:

*[please tick the appropriate box]*

- owner or Legal representative, or
- under Special/General power of attorney

participating in the Call for tender in subject in my capacity of:

*[please tick the appropriate box]*

- individual Company (let. a), art. 34, Code of public contract);
- Company (let. a), art. 34, Code of public contract), specify type of Company:

---

\_\_\_\_\_;

- Consortium between Cooperatives (“Consorzio fra società cooperativa di produzione e lavoro”) (let. b), art. 34, Legislative Decree no.163/2006);
- Consortium between Craft businesses (“Consorzio tra imprese artigiane”) (let. b), art. 34, Legislative Decree no.163/2006);
- stable Consortium (let. c), art. 34, Legislative Decree no.163/2006);
- Lead company of Temporary grouping of Companies (let. d), art. 34, Legislative Decree no.163/2006):
  - incorporated
  - to be incorporated;
- Lead company of regular consortium (let. e), art. 34, Legislative Decree no.163/2006):
  - incorporated;
  - to be incorporated;
- Lead company of Business Networks (let. e-bis), art. 34, Legislative Decree no.163/2006
- E.E.I.G. (let. f), art. 34, Legislative Decree no.163/2006);
- Economic Operators established in a different E.U. Member States, according to the provision applicable in their relevant country (let. f-bis), art. 34, Legislative Decree no.163/2006)  
\_\_\_\_\_;

#### HEREBY UNDERTAKE

- To fulfil all the obligation provided by the Framework Agreement draft, in the Contract Notice for the Realization of a Research and Development Project (PRE COMMERCIAL PROCUREMENT) on “Cloud for Europe – lot no. 2” - CIG: <6027802B8F > – CUP: <C58I13000210006>, in the Tender Regulation, in the document “Technical Specifications”, in the “Request for participation” and in the Declarations referred

to in enclosed declarations, in the document attached or complementary to the aforementioned documents, and in all the other deeds related to the “Realization of a Research and Development Project (Pre-Commercial Procurement) on “Cloud for Europe – lot no. 2” CIG: <6027802B8F> – CUP: <C58I13000210006> by issuing the following financial offer.

- The overall total amount (in Euro) identified for completing “Phase one”, related to the Solution design, under penalty of exclusion, shall be indicated, in numbers and letters:

- Amount in Euro, in numbers and letters: \_\_\_\_\_

[numbers]

\_\_\_\_\_

[letters]

- **Increased offers compared to the maximum amount will not be accepted** [which, for Phase one, is equal to € 40.000,00 (forty thousand/00), V.A.T. excluded], for lot 2, partial or conditioned.
- The calculation for the assignment of all scores will take into account the first two decimal.

- The Estimated Full Price is the price that it would have been quoted if Intellectual Property Rights resulting from the execution of Phase I were fully retained by the Procuring Entity. The estimated Full Price shall be indicated in numbers and letters:

- Amount in Euro, in numbers and letters: \_\_\_\_\_

[numbers]

\_\_\_\_\_

[letters]

The breakdown into cost categories and unit prices for each cost category contains:

- the list of R&D resource categories (e.g. junior, senior researchers, developers, testers, etc.) that the tenderer plan to use for the execution of the services in Phase I.
- the unit price for each resource category;
- for each resource category, the minimum guaranteed quantity of resources for the execution of the

of the services in Phase I.

The list includes only the resource categories that are inseparable from and indispensable to deliver the R&D services that are executed through the present contract.

Description of the resource category	Description of the unit (hour, day/person, quantity...)	Unit price (in numbers, Euro)	Minimum guaranteed quantity of resources for the execution of the services in Phase I

The following list contain resources for Phases II and III that are not expected to be used in Phase I.

Description of the resource category (to be used in Phase II or III)	Description of the unit (hour, day/person, quantity...)	Unit price (in numbers, Euro)

- There are no security charges deriving from interferential risks, pursuant to article 26 of Legislative Decree



no. 81/2008.

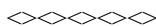
- The undersigned, in addition, by accepting all terms and conditions specified in the Tender documents, furthermore state:
  - that the offer is irrevocable and binding until the 180° (one hundred eightieth) day after the deadline scheduled for the submission of offers;
  - that such offer shall not bind in any way AGID;
  - to have full knowledge of all the general and special circumstances which can affect the performance of all the services covered by this Tender and that such circumstances have been taken into account in determining the demanded amount, which is considered remunerative;
  - to apply the same conditions for any additional integrative activities that AGID may request, within the limits provided for Public Administration;
  - to acknowledge that the deadlines set out in the entire tender documentation referred to the time of performance of the services covered by the tender shall be considered, to all effects, essential terms pursuant to article 1457 of the Italian Civil code;
  - that the “Technical Specification” document, as well as the other Tender documents, will form integral and substantial part of the Contract to be stipulated with AGID.

\_\_\_\_\_, \_\_\_\_\_  
*[place and date]*

Signature \_\_\_\_\_

*[stamp and legible signature]*

for the Company \_\_\_\_\_



- *N.B. In case of Tenderers participating by way of Temporary Grouping of Companies/Consortia/E.E.I.G./Business Network Contracts, not incorporated yet, pursuant to article 37, sub-section 8, Code of public contract, for the purpose of signing in solido the offer, on behalf of the Tenderers grouped companies.*

Signature \_\_\_\_\_

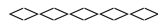
*[stamp and legible signature]*

for the Company \_\_\_\_\_

Signature \_\_\_\_\_

*[stamp and legible signature]*

for the Company \_\_\_\_\_



- *N.B. A copy of the signatory's ID document shall be enclosed to this sample request. (I.D. Card/ Driving license /Passport).*
- *N.B **each page** of this sample statement shall be accompanied by the **company's stamp** and the **legal representative's initials**.*

## 30 ANNEX I – TEMPLATE OF FINANCIAL OFFER (LOT 3)

The envelope no. 3 <REALIZATION OF A PRE-COMMERCIAL PROCUREMENT R&D PROJECT FOR “Cloud for Europe – lot no. 3” CIG: <602781022C> – CUP: <C58I13000210006> shall contain, under penalty of exclusion, a Declaration of offer drawn up as follows.

To:

Agenzia per l’Italia Digitale (AGID)  
Via Listz, 21  
00144 – Roma  
Italy

### DECLARATION OF OFFER

Subject: RESEARCH AND DEVELOPMENT PROJECT (PRE COMMERCIAL PROCUREMENT) ON “Cloud for Europe” - CIG: <602781022C> – CUP: <C58I13000210006>

I, the undersigned \_\_\_\_\_

*[surname and name]*

born in \_\_\_\_\_ (\_\_\_\_\_), on \_\_\_\_\_

*[state] [city] [date]*

resident in \_\_\_\_\_ (\_\_\_\_\_),

street \_\_\_\_\_, no. \_\_\_\_\_

*[place] [city] [address]*

on behalf of the Tenderer “ \_\_\_\_\_ ”

with registered office in \_\_\_\_\_ (\_\_\_\_\_),

street \_\_\_\_\_, no. \_\_\_\_\_

*[state] [city] [address]*

in my capacity of:

*[please tick the appropriate box]*

- owner or Legal representative, or
- under Special/General power of attorney

participating in the Call for tender in subject in my capacity of:

*[please tick the appropriate box]*

- individual Company (let. a), art. 34, Code of public contract);
- Company (let. a), art. 34, Code of public contract), specify type of Company:

- 
- \_\_\_\_\_;
- Consortium between Cooperatives (“Consorzio fra società cooperativa di produzione e lavoro”) (let. b), art. 34, Legislative Decree no.163/2006);
  - Consortium between Craft businesses (“Consorzio tra imprese artigiane”) (let. b), art. 34, Legislative Decree no.163/2006);
  - stable Consortium (let. c), art. 34, Legislative Decree no.163/2006);
  - Lead company of Temporary grouping of Companies (let. d), art. 34, Legislative Decree no.163/2006):
    - incorporated
    - to be incorporated;
  - Lead company of regular consortium (let. e), art. 34, Legislative Decree no.163/2006):
    - incorporated;
    - to be incorporated;
  - Lead company of Business Networks (let. e-bis), art. 34, Legislative Decree no.163/2006
  - E.E.I.G. (let. f), art. 34, Legislative Decree no.163/2006);
  - Economic Operators established in a different E.U. Member States, according to the provision applicable in their relevant country (let. f-bis), art. 34, Legislative Decree no.163/2006)
- \_\_\_\_\_;

#### HEREBY UNDERTAKE

- To fulfil all the obligation provided by the Framework Agreement draft, in the Contract Notice for the Realization of a Research and Development Project (PRE COMMERCIAL PROCUREMENT) on “Cloud for Europe – lot no. 3” - CIG: <602781022C> – CUP: <C58I13000210006>, in the Tender Regulation, in the document “Technical Specifications”, in the “Request for participation” and in the Declarations referred to in the enclosed declarations, in the document attached or complementary to the aforementioned documents, and in all the other deeds related to the “Realization of a Research and Development Project (Pre-Commercial

Procurement) on “Cloud for Europe – lot no. 3” CIG: <602781022C> – CUP: <C58I13000210006> by issuing the following financial offer.

- The overall total amount (in Euro) identified for completing “Phase one”, related to the Solution design, under penalty of exclusion, shall be indicated, in numbers and letters:

- Amount in Euro, in numbers and letters: \_\_\_\_\_

[numbers]

\_\_\_\_\_

[letters]

- **Increased offers compared to the maximum amount will not be accepted** [which, for Phase one, is equal to € 30.000,00 (thirty thousand/00), V.A.T. excluded], for lot 3, partial or conditioned.

- The calculation for the assignment of all scores will take into account the first two decimal.

- The Estimated Full Price is the price that it would have been quoted if Intellectual Property Rights resulting from the execution of Phase I were fully retained by the Procuring Entity. The estimated Full Price shall be indicated in numbers and letters:

- Amount in Euro, in numbers and letters: \_\_\_\_\_

[numbers]

\_\_\_\_\_

[letters]

The breakdown into cost categories and unit prices for each cost category contains:

- the list of R&D resource categories (e.g. junior, senior researchers, developers, testers, etc.) that the tenderer plan to use for the execution of the services in Phase I.

- the unit price for each resource category;

- for each resource category, the minimum guaranteed quantity of resources for the execution of the of the services in Phase I.

The list include only the resource categories that are inseparable from and indispensable to deliver the R&D services that are executed through the present contract.

Description of the resource category	Description of the unit (hour, day/person, quantity...)	Unit price (in numbers, Euro)	Minimum guaranteed quantity of resources for the execution of the services in Phase I

The following list contain resources for Phases II and III that are not expected to be used in Phase I.

Description of the resource category (to be used in Phase II or III)	Description of the unit (hour, day/person, quantity...)	Unit price (in numbers, Euro)

- There are no security charges deriving from interferential risks, pursuant to article 26 of Legislative Decree no. 81/2008.
- The undersigned, in addition, by accepting all terms and conditions specified in the Tender documents, furthermore state:
  - that the offer is irrevocable and binding until the 180° (one hundred eightieth) day after the deadline scheduled for the submission of offers;

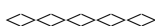
- that such offer shall not bind in any way AGID;
- to have full knowledge of all the general and special circumstances which can affect the performance of all the services covered by this Tender and that such circumstances have been taken into account in determining the demanded amount, which is considered remunerative;
- to apply the same conditions for any additional integrative activities that AGID may request, within the limits provided for Public Administration;
- to acknowledge that the deadlines set out in the entire tender documentation referred to the time of performance of the services covered by the tender shall be considered, to all effects, essential terms pursuant to article 1457 of the Italian Civil code;
- that the “Technical Specification” document, as well as the other Tender documents, will form integral and substantial part of the Contract to be stipulated with AGID.

\_\_\_\_\_, \_\_\_\_\_  
*[place and date]*

Signature \_\_\_\_\_

*[stamp and legible signature]*

for the Company \_\_\_\_\_



- *N.B. In case of Tenderers participating by way of Temporary Grouping of Companies/Consortia/E.E.I.G./Business Network Contracts, not incorporated yet, pursuant to article 37, sub-section 8, Code of public contract, for the purpose of signing in solido the offer, on behalf of the Tenderers grouped companies.*

Signature \_\_\_\_\_

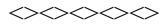
*[stamp and legible signature]*

for the Company \_\_\_\_\_

Signature \_\_\_\_\_

*[stamp and legible signature]*

for the Company \_\_\_\_\_



- *N.B. A copy of the signatory's ID document shall be enclosed to this sample request. (I.D. Card/ Driving license /Passport).*
- *N.B. **each page** of this sample statement shall be accompanied by the **company's stamp** and the **legal representative's initials**.*